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Report of the Economic and Social Council

Public administration and development

Report of the Secretary-General**

Summary

As requested by the General Assembly in its resolution 58/231, the present report outlines proposals for commemorating, during the sixty-first session of the General Assembly in 2006, the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development. It suggests that the commemoration could be an opportune time to evaluate the progress made in revitalizing public administration and to share successful experiences that have contributed to the achievement of the Millennium Development Goals. In that context, the report recalls the recommendations formulated by the Committee of Experts on Public Administration in April 2004 on repositioning and revitalizing public administration in order to accelerate progress in achieving development goals, and sets forth a number of benchmarks that could serve to guide countries in this process. It also draws the attention of the General Assembly to recommendations on preparatory and supporting actions that could be taken in connection with the observance of the anniversary, including hosting the Global Forum on Reinventing Government at United Nations Headquarters in 2006; devoting the high-level segment of the Economic and Social Council in 2006 to the changing role of administration; and celebrating United Nations Public Service Day and the presentation of the United Nations Public Service Awards in a more visible manner.

As requested in the same resolution, the report also describes activities under way to promote information exchange, research and the dissemination of successful practices and advisory services in public administration, and to support e-government initiatives in the African, Asian, Central American and Caribbean regions as a tool for development.

* A/59/150.
** Late submission due to pending discussion of the item in the Economic and Social Council.

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I. Introduction

1. In its resolution 58/231, the General Assembly took note of the previous report of the Secretary-General (A/58/152) and requested the Secretary-General:

(a) To make proposals for commemorating the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development, during the sixty-first session of the General Assembly, in 2006;

(b) To support information exchange and research and disseminate successful practices and advisory services in public administration that contribute to achieving the internationally agreed development goals, including those contained in the United Nations Millennium Declaration;

(c) To continue supporting the e-government initiatives in the African, Asian, Central American and Caribbean regions as a tool for development.

2. Pursuant to this request, and as a follow-up to the reports submitted by the Secretary-General in 2002 and 2003 (A/57/262 and A/58/152), the present report covers proposals and preparations for the tenth anniversary of the resumed fiftieth session of the General Assembly. It also addresses the work of the United Nations Programme on Public Administration, Finance and Development in research and advisory services for the implementation of the Millennium Development Goals, as well as in e-government initiatives.

II. Proposals for commemorating the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development

Revitalizing public administration

3. In his report to the General Assembly at its fifty-seventh session (A/57/262), the Secretary-General emphasized the vital importance that an effective public administration can play in the implementation of internationally agreed development goals, including those contained in the Millennium Declaration. The message is even more valid today as efforts are being made to accelerate progress towards achieving the Millennium Development Goals.

4. The importance of focusing economic and social policies on achievement of the Millennium Development Goals, of increasing the flow of resources to developing countries and of developing accurate data to monitor the progress made has been rightly stressed in international forums. However, greater emphasis also needs to be placed on the need to strengthen public administration institutions, improve public sector human resources capacity, and foster knowledge creation and innovation and the utilization of information technology for development in public administration.

5. The commemoration of the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development could be an opportune time to evaluate the progress made in revitalizing public administration and to share successful experiences that have contributed to the achievement of the Millennium Development Goals.

6. The Committee of Experts on Public Administration, which held its third session in New York in April 2004, recommended that public administration be repositioned and revitalized, stressing that countries should focus reform of their public administration system on achieving conditions that will ensure and facilitate the attainment of the Millennium Development Goals.

7. In the light of the Committee's recommendations, the following are some benchmarks that could serve to guide countries in the process of public administration reform and revitalization:

(a) It is important that the fundamental mission of the public sector and public administration, particularly their role in ensuring peace, security, stability and the rule of law and in providing other public and social goods, be reaffirmed and redefined, including by creating an enabling environment for economic growth, sustainable development and social development, in keeping with the outcomes of the major United Nations summits and conferences. Governments should make consistent and focused efforts to integrate into public administration relevant practices of public management, along with principles of inclusiveness and equity, so as to build and promote public administration systems that are not only results-oriented, efficient and cost-effective, but also responsive, equitable and accountable to the public. Approaches to realizing this vision of public administration should be flexible and sensitive to particular social, political and economic environments.

(b) Striking an effective balance between centralization and decentralization of public administration to promote people-centred development should be a major focus of government attention. Decentralization can be key in promoting effective public services, equity and accountability. Decentralized governance, promoted in a number of countries, has been found to facilitate the participation of grass-roots populations and communities, with support from other national, regional and international actors, in the fight against poverty. However, decentralization may not always provide the solution to public administration challenges, and, by realizing economies of scale, centralization of certain public services may, in some instances, be more cost-effective. Therefore, an appropriate mix of centralization and decentralization needs to be sought, taking into account the specific circumstances of all stakeholders involved and the resources available.

(c) As part of decentralization, the public sector should consider establishing, within clear regulatory frameworks, partnerships with the private sector and civil society, and to provide training and orientation to partners on effectively engaging in a constructive dialogue on shared objectives with the public sector and with the international financial institutions. Accountability implies that the constituents of public services and their civil society representatives should not only be consulted, but should also have the right to monitor the progress of initiatives and, most important, should remain part and parcel of the final decision-making process. Partnership-building with the private sector and civil society can be an effective means to establish citizen commitment to and ownership of the Millennium Development Goals and poverty reduction strategies and to mainstream citizen concerns into policy processes, resulting, for example, in pro-poor budgets and revenue policies.[1] An enabling environment for partnerships should, therefore, be strengthened through innovative means, such as codes of accountability, and the necessary forums should be provided for Governments and civil society to carry on a constructive dialogue with other partners, both national and international, for the

design, the implementation and the monitoring of strategies and policies for economic and social development.

(d) A culture of research and innovation for improved public sector performance should be fostered, including the application of new information and communication technologies, consistent with the development of a modern knowledge society. Governments also need to pursue policies for the consolidation of a professional civil service and policies to attract, recruit and retain in the public sector the best possible human resources available on the market, including through competitive civil service remuneration.

(e) Public administration should be empowered, through such means as reorganizing institutions, promoting capacity-building and upgrading skills, to adapt the Millennium Development Goals to the national context, as part of the national development agenda, including national poverty reduction strategies. Additionally, databases should be developed on successful practices in support of public administration and public institution needs (including political institutions, such as parliaments), with particular attention paid to the role of, and the space for, public and private partners in fostering sustained economic growth and achievement of the Millennium Development Goals.

Proposed actions for the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development

8. In addition to making substantive recommendations on revitalizing public administration, the Committee of Experts on Public Administration reviewed various options regarding preparations for the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development and recommended to the Economic and Social Council the following preparatory and supporting actions:

(a) Hosting the Global Forum on Reinventing Government at United Nations Headquarters in 2006;

(b) Devoting the high-level segment of the Economic and Social Council in 2006 to the changing role of public administration as an instrument of economic and human development, in the attainment of the Millennium Development Goals, with public service delivery as the pivotal element;

(c) Celebrating United Nations Public Service Day and the presentation of the United Nations Public Service Awards in a more visible manner with a view to highlighting the value of public service and promoting its positive achievements.

These three action areas are discussed below.

Global Forum on Reinventing Government

9. Pursuant to the request of the General Assembly in its resolution 57/277, the United Nations Programme on Public Administration, Finance and Development supports technically and substantively the Global Forum on Reinventing Government, which provides a platform for ministers, high-level officials,

regional/municipal leaders, representatives of civil society organizations and key stakeholders from developing countries and countries with economies in transition to exchange views and practical experiences related to the process of reform in public administration. The Global Forum on Reinventing Government is organized by the Government of the host country, with the support of the United Nations Programme on Public Administration, Finance and Development, and brings together the capacity of a number of United Nations entities and other international institutions. There are no costs involved for the United Nations regular budget. These forums have been successful in galvanizing the attention of government leaders and international actors on crucial issues related to partnerships for democracy and development.

10. The first Global Forum on Reinventing Government was launched in 1999 by the Government of the United States of America, and was held in Washington, D.C. Subsequent forums were then organized by the Governments of Brazil (on democratic institutions, 2000); Italy (on fostering democracy and development through e-government, 2001); Morocco (on partnerships for democracy and development, 2002); and Mexico (on innovations and quality, 2003). The Government of the Republic of Korea has agreed to host the sixth Global Forum in Seoul in May 2005, on the theme "Towards participatory and transparent governance". The seventh Global Forum could be hosted at United Nations Headquarters in 2006 under the same arrangements as in the past, namely without cost for the United Nations regular budget.

High-level segment of the Economic and Social Council in 2006

11. In recognition of the role of public service in the fulfilment of specific national goals for socio-economic development, the Committee of Experts on Public Administration held consultations with the Economic and Social Council on devoting one of its next high-level segments to the changing role of public administration for the achievement of the Millennium Development Goals, with public service delivery as the primary focus. The proposed theme for the segment is: "A service-oriented public administration for the achievement of the Millennium Development Goals".

United Nations Public Service Day and Awards

12. Human resources development is a key ingredient in the achievement of the Millennium Development Goals. Recruiting and retaining skilled, dedicated and highly motivated public servants with good ethics are essential for carrying out reforms at the local and global levels. In this spirit, the General Assembly, by its resolution 57/277, designated 23 June as the United Nations Public Service Day to celebrate the value and virtue of service to the community. Subsequently, the Economic and Social Council established the United Nations Public Service Awards, to be given annually on Public Service Day to recognize excellence and innovation in the public service.

13. The Awards have provided an opportunity to highlight successful innovations and practices in public administration. In 2004, the Awards ceremony on 23 June was marked by the presence of the President of the fifty-eighth session of the

General Assembly. Ministers from six countries — Italy, Mexico, Morocco, Qatar, the Republic of Korea and South Africa — participated in the meeting via videoconference. For the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development, arrangements are being made to geographically widen participation in the Public Service Awards competition and to give more visibility to the Awards ceremony around the world. It is planned that the Secretary-General will chair the event and that high-level officials from all regions will be invited to participate.

III. Exchange of research, information and experiences and advisory services

14. In response to the request of the General Assembly in its resolution 58/231, that the Secretary-General support information exchange and research, disseminate successful practices and provide advisory services in public administration for the achievement of the internationally agreed development goals, the normative, analytical and technical cooperation activities of the United Nations Programme on Public Administration, Finance and Development are increasingly being oriented at policy advice and capacity-building, especially in the area of poverty reduction and improved delivery of public services. Some examples of the initiatives carried out in the past year are set out below.

A. Research

15. The 2003 interregional workshop on the theme "Engaged governance for pro-poor policies: South-South cooperation", undertaken by the United Nations Programme on Public Administration, Finance and Development jointly with the Government of Sri Lanka, through the Ministry of Policy Development and Implementation, explored the concept of innovative public administration arrangements, particularly "engaged governance", through a sharing of country/regional experiences. Engaged governance was defined as an approach to public policy and administration that enables the expression and the coordination of political, administrative and civic interests for the achievement of policy coherence, social justice and sustainable development. The workshop demonstrated the relevance of this approach to the formulation of pro-poor public policy for the Millennium Development Goals and proposed an action plan to further it with national and local agencies.

16. The Millennium Declaration underscores the importance of public sector capacity in order to eradicate poverty, protect the vulnerable and increase the participation of women and disadvantaged groups in policy decisions. Pursuant to this, an Asia-Pacific regional workshop on the theme "Governance challenges and innovations for human development in globalizing conditions" was organized jointly by the Economic and Social Commission for Asia and the Pacific (ESCAP) and the United Nations Programme on Public Administration, Finance and Development to disseminate tools, techniques and methodologies that can be employed to mainstream the concerns of the poor and the disadvantaged into the policy-making process of government.

17. As part of its efforts to promote tools and strategies that can help public institutions and policy processes, particularly to facilitate pro-poor interventions, the United Nations Programme on Public Administration, Finance and Development organized an expert group meeting on the participation of civil society in fiscal policy. A group of experts was invited to present specialized papers on the subject and discuss methodologies that may support a more participatory, transparent policy process, including the budgeting process.

18. The meeting delineated experiences of civil society participation and macroeconomic policy processes, the strengths and the weaknesses of these initiatives and various methodologies used to make the macroeconomic policy process more participatory and transparent. It demonstrated that, with a clear pro-poor orientation, both the budget process and the budget output can be directed to poverty reduction activities. In addition, pro-poor aspects of fiscal policy, such as making revenue and taxation systems less regressive and therefore less detrimental to the poor, through greater use of direct, as opposed to indirect, taxes, need to be emphasized. A publication based on the results of this expert group meeting on civil society participation in fiscal policy will be made available in print by the end of 2004.

19. The core competencies for the public sector of the twenty-first century differ in many ways from those of the past, especially as demands on public servants, in terms of skills, knowledge and competence, are rapidly increasing and becoming more complex. Top government leaders in developing countries are facing old challenges, while at the same time having to address new ones due to many social, economic and political challenges. In May 2004, an ad hoc expert group meeting was organized on the theme "Unlocking the human potential for public sector performance", where the role of human capital in revitalizing public administration, as well as challenges and trends in human resources management in the public sector environment, were critically discussed, especially as they relate to competencies for economic and social development. A number of recommendations were made, including attracting and retaining the best talent in the public sector, creating and maintaining a professional and responsive public service, developing leadership capacity, and improving the image of and revalidating public service contributions.

20. An ad hoc expert group meeting was organized in 2004 on the theme "Decentralized governance for effective and responsive service delivery: prerequisites, trends, approaches, policies and capacity-building strategies", during which critical issues related to decentralization and service delivery were discussed. For decentralization to be effective, its policies, legal frameworks and implementation strategies must be not only clear but also appropriate. They must provide a structural arrangement that can facilitate the participation of people in managing their development process. For decentralization to positively impact service delivery, adequate financing needs to be in place, including transparent and accountable management of resources. There needs to be adequate cooperation and collaboration at all levels (local government, central government and the communities) in order for decentralization to be effective, and there has to be constant monitoring and evaluation of service delivery to ensure the optimal utilization of resources. Finally, decentralization requires the public sector to take on a wide range of capacity-building activities to empower communities to pursue their own development.

B. Sharing of information and experiences

21. The United Nations Online Network on Public Administration and Finance (UNPAN) continues to serve as a pivotal source of information exchange, experience-sharing and on-the-job training in the area of public sector policy and management utilized by public offices, policy makers, public administration institutions and experts. As a global online information and knowledge network, UNPAN continues to facilitate capacity-building, dialogues among stakeholders at the national level and expanded collaboration among Member States, especially developing countries. Moreover, UNPAN provides ongoing access to the most innovative research, training practices, methodologies and technical assistance.

22. In partnership with the Economic and Social Commission for Western Asia (ESCWA), which has become an UNPAN online regional centre, a conference was held in May 2004 to address the needs and priorities of the countries of the Mediterranean region for introducing innovations into their public administration systems, with a particular focus on the Arab region. Possible expansion of the role of UNPAN in strengthening the capacity of national institutions in the Arab region was also explored.

23. The United Nations Programme on Public Administration, Finance and Development, in partnership with the United Nations Development Programme, decided to undertake a second phase of the Africa Governance Inventory project, starting in 2004. This collaboration was created in 1998 to respond to the need for a comprehensive database on governance programmes in Africa. Since 1999, 28 countries have participated in the project. Furthermore, the project has committed to contributing to the governance objectives of the New Partnership for Africa's Development, particularly enhancing dialogue with donors and providing an objective and reliable base for assessing governance performance.

24. The United Nations Public Service Awards competition constitutes an important initiative to promote innovation and to identify and share successful experiences in public administration. Such innovations promote equity by ensuring access to services, particularly by the vulnerable groups. They emphasize timeliness and courtesy, transparency in decision-making, professionalism and accountability to citizens, clients and other stakeholders. New methodologies and approaches to work are a radical departure from "business as usual", lowering costs and enhancing the quality of service, incorporating new information and communications technology and improving service delivery and interaction between public officials and the public at all levels of society.

C. Advisory services and capacity-building

25. The United Nations Programme on Public Administration, Finance and Development has been involved in two activities concerning the preparation of a methodological framework for the French-speaking sub-Saharan African region for the monitoring of poverty reduction strategy papers and the Millennium Development Goals, which is expected to be completed by the end of 2004. The monitoring of poverty reduction strategy papers and the Millennium Development Goals aims to take into account the qualitative perception of poverty, governance and environment dimensions and harmonization of indicators to allow international

comparisons. Another initiative intends to support the monitoring process in Mali at the national level. Links are currently being developed with regional monitoring of poverty reduction strategy papers and the Millennium Development Goals.

26. Support was provided in the area of capacity-building to revitalize public administration in Africa. The support, which was substantive, technical and financial, included the design and the adoption of the governance and public administration capacity-building programme, which was adopted by the African Union Assembly of Heads of State and Government in Maputo; the biennial Pan African Conference of Ministers of Public Service, which, under the banner of NEPAD, designs and reviews strategies for public service performance in Africa; the implementation of the Charter for the Public Service in Africa, integrating the Africa Governance Inventory into the Africa peer review mechanism process to facilitate monitoring and evaluation by the mechanism; and the design and implementation of the public sector leadership capacity development programme for good governance in Africa. Country initiatives and advisory services are being carried out within this framework in cooperation with UNDP.

27. In Latin America, a programme on capacity-building in social management for senior public officials is being implemented, with seminars being held in Argentina, Guatemala, Peru and Venezuela, aimed at assisting public agencies in the design and implementation of social service programmes.

28. The United Nations Programme on Public Administration, Finance and Development, in partnership with UNDP, organized a regional expert group meeting to promote a regional-level dialogue and cooperation among the countries of the Commonwealth of Independent States, which will further strengthen country-level capacity-building in the area of corporate social responsibility. Similar initiatives have also been undertaken in India with the UNDP India Country Office and the Confederation of Indian Industries to articulate corporate social responsibility issues and to develop a regulatory framework for promoting a corporate social responsibility framework in the country.

IV. E-government initiatives in the African, Asian, Central American and Caribbean regions

29. The Millennium Declaration calls on all Member States to ensure that the benefits of new technologies, especially information and communication technology (ICT), are available to all. The strategic use of ICTs in government serves as an important tool in meeting the Millennium Development Goals, as it can result in a more inclusive, effective, efficient, transparent and accountable public administration, which in turn can improve economic development and competitiveness. Moreover, in enhancing the quality and the delivery of public services through ICT, especially in the areas of education, health, social security and social welfare, Governments may be better positioned to reduce poverty, address inequality and promote sustainable development. Equally important, e-government can offer new channels for participation and engagement in the political process and greater consultation in the decision-making process, and can enhance prospects for deepening democracy. Rural areas can benefit from e-government through community information technology centres at district and village levels, as experiences in countries such as India and Egypt have made clear. In this respect,

the following initiatives demonstrate the support of the United Nations Programme on Public Administration, Finance and Development to e-government as an effective tool for development.

30. The Shanghai Municipal People's Government, in partnership with the United Nations Programme on Public Administration, Finance and Development and other institutions, such as UNDP, the United Nations Information and Communication Technologies Task Force and the International Telecommunication Union, organized a forum on the theme "City informatization in the Asia-Pacific region". The forum has been successfully held for three consecutive years (2000, 2001 and 2002), with participants from more than 20 international organizations covering Asia, Europe, America, Australia and Africa. It continues to provide a platform for government leaders, decision makers and policy developers, business leaders and entrepreneurs, and technical professionals and experts worldwide to exchange visions, policies and strategies, technologies and products, and practices and experiences, in order to stimulate economic and social development through city informatization in the Asia-Pacific region and worldwide, and to promote inter-country, regional and international cooperation, particularly South-South cooperation, and, accordingly, to bridge the digital divide of the world. Particular attention was given to strategies to bridge the digital divide and to the emerging needs and trends worldwide in ICT development.

31. In recognition of the importance of ICT and e-government to national and regional development, the United Nations Programme on Public Administration, Finance and Development in partnership with the Caribbean Centre for Development Administration (CARICAD), a specialized institution of the Caribbean Community, has organized ministerial consultations for the past four years on the themes of ICT and e-government. The ministerial consultations are part of a broader initiative for administrative reform and e-government capacity-building by the countries of the Caribbean region and CARICAD, the Government of Italy and the United Nations Programme on Public Administration, Finance and Development. These consultations provide an opportunity for further dialogue, commitment and closer cooperation at the regional level on government policies and strategies for the application of ICT in the public sector. The Fifth Caribbean Ministerial Consultation on Regional Cooperation for E-Government Capacity Building, on the theme "Action-oriented e-government strategy for countries of the Caribbean region, 2004-2007", was held in Porters, St. James, Barbados, in June 2004.

32. The United Nations Programme on Public Administration, Finance and Development provided support to the E-Government Task Force for Central America, which was endorsed by the Central American Vice-Presidents at their February 2003 meeting. The Task Force inaugurated its activities at a meeting in Honduras in August 2003, during which its terms of reference and a blueprint for future action were developed. The primary mandate of the Task Force is the creation and the implementation of a regional strategic plan of action on e-government in Central America and the formulation of specific projects aimed at strengthening the institutional capacity of the Central American governance system, especially of regional, central and local government institutions, to improve policy-making, coordination and delivery of public goods and services using ICTs.

33. The United Nations Programme on Public Administration, Finance and Development continues to produce analytical tools and develop policy notes and

reports on current and cutting-edge e-government issues. One such example is the *World Public Sector Report 2003: E-Government at the Crossroads*. The report, which was preceded by the United Nations Global e-Government Survey (2003), underlined the importance of adopting information and communication technologies for developing and developed countries. Estimates show that in most countries, only one in five persons with Internet access engage in government online. The report also expressed particular concern about the lack of access by women, the poor and other disadvantaged groups and suggested a framework for e-government prioritization that takes into account the Millennium Declaration campaign for reducing poverty and meeting basic human needs.

34. The United Nations Programme on Public Administration, Finance and Development continues to address both the opportunities and the challenges of e-government through analysis and building government capacity to develop national e-government strategies and action plans. One example is the e-government for development programme, funded by the Government of Italy, which seeks to carry out needs assessments and implement specific e-government projects in priority areas in a number of countries in Africa, the Middle East and Eastern Europe.

V. Recommendation

35. **With respect to the commemoration of the tenth anniversary of the resumed fiftieth session of the General Assembly on public administration and development, the General Assembly may wish to take note of the proposals contained in paragraph 8 above.**

Notes

[1] For a review of participation in the poverty reduction strategy papers process, see "Participation in poverty reduction strategy papers: a retrospective study", World Bank (January 2002). This review by Bank staff includes a summary of external assessment of participation in poverty reduction strategy papers carried out by a number of non-Bank institutions, including civil society organizations.

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Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions

Note by the Secretary-General**

1. Pursuant to General Assembly resolutions 48/218 B of 29 July 1994, 54/244 of 23 December 1999 and 57/279 of 20 December 2002, the Secretary-General has the honour to transmit, for the attention of the Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the audit of safeguarding air safety standards while procuring air services, in particular in the area of cargo airlifts.

2. The Secretary-General takes note of the findings and concurs with the recommendations made in the report, which will enhance policies and procedures for safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions.

* A/59/150.

** The present report could not be submitted prior to the deadline because the review had not been concluded at that time.

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Report of the Office of Internal Oversight Services on the audit of safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions

Summary

Pursuant to General Assembly resolution 57/279 of 20 December 2002, the Office of Internal Oversight Services (OIOS) conducted an audit of safeguarding air safety standards while procuring air services for United Nations peacekeeping missions. As of 31 January 2004, the Department of Peacekeeping Operations deployed 136 aircraft to peacekeeping missions. The Department projected that, owing to the significant increase in peacekeeping operations, over 200 aircraft would be deployed in 2004.

The audit showed that the Department of Peacekeeping Operations has taken significant steps to improve air safety, notably by jointly developing the Aviation Standards for Peacekeeping and Humanitarian Air Transport Operations with the World Food Programme. More recently, the Department stopped procuring cargo aircraft to transport passengers, based on increased safety considerations. However, OIOS found that significant efforts are still needed in the areas of air safety policy setting, procurement and organization and staffing of the Department and peacekeeping mission units responsible for air safety. Other key audit results are discussed below.

Although an accident prevention programme existed in the Department of Peacekeeping Operations, no trend analyses or lessons learned — the most effective tools for accident prevention — have been issued.

For the peacekeeping missions in Sierra Leone, Liberia and Côte d'Ivoire, where a total of 40 aircraft were deployed, a regional aviation safety office would be more cost-effective than deploying aviation safety officers at each mission. This would also help to improve consistency in the application of the Department of Peacekeeping Operations accident prevention programme.

Within the Department of Peacekeeping Operations, the positions of Chief, Air Transport Section, and Chief, Aviation Safety Unit, were frequently vacant for prolonged periods. Furthermore, there was only limited progress in implementing the International Civil Aviation Organization recommendations to the Department for strengthening its civil aviation capacity. In the opinion of OIOS, these factors made it difficult for the Department to develop and sustain a sound air safety strategy.

Regarding procurement, OIOS noted that visits by the Department of Peacekeeping Operations staff to vendor sites to evaluate vendor capability in providing technically acceptable and safe air services were infrequent, reportedly because of budgetary constraints. The Procurement Division and the Department needed to agree on a vendor pre-qualification process to allow wider participation of vendors in United Nations bids while maintaining an acceptable level of scrutiny of the documentation provided by prospective vendors.

There were divergent opinions within the Department of Peacekeeping Operations concerning the appropriateness of procuring cargo aircraft for the purpose of transporting cargo and passengers. This practice was used until 2003. At the

peacekeeping missions in the Democratic Republic of the Congo and Sierra Leone alone, about 50,000 United Nations peacekeeping troops and staff members were transported by cargo aircraft in 2002. After two accidents involving non-United Nations cargo aircraft carrying passengers resulted in mass fatalities in 2002-2003, the Department stopped transporting passengers on cargo aircraft as of April 2004.

Sizeable air operations at some landing sites in the United Nations Organization Mission in the Democratic Republic of the Congo were taking place in the absence of basic ground terminal services and personnel. Moreover, about 60 per cent of the Mission's flights were non-routine for urgent requirements, which in the view of OIOS constituted an unacceptably high volume of such flights. The last three fatal United Nations accidents involved such urgent requirements flights.

OIOS issued 20 recommendations in order to enhance policy and procedures on safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions. The Department of Peacekeeping Operations management agreed with all the recommendations and has started to implement them.

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I. Introduction

1. Pursuant to General Assembly resolution 57/279 of 20 December 2002, the Office of Internal Oversight Services (OIOS) conducted an audit of compliance with air safety standards by the Department of Peacekeeping Operations, peacekeeping missions and the Procurement Division while procuring air services, particularly in the area of cargo airlifts, for United Nations peacekeeping missions.

2. Air services contracts for United Nations peacekeeping missions involve the provision of aircraft, crew and maintenance. As of 31 January 2004, the Department of Peacekeeping Operations deployed to peacekeeping missions 89 aircraft procured through commercial contracts and 47 aircraft procured through letters of assist (i.e. arrangements with contributing member countries). The Department projected that in 2004, the total number of aircraft deployed would exceed 200 owing to the significant increase in peacekeeping operations. From July 2002 to June 2003, expenditures for air services amounted to about $223 million.

3. The audit focused on the procurement of air services through commercial contracts. OIOS previously reviewed the procurement of military aircraft through letters of assist with contributing member countries (see A/57/718). In the current audit, OIOS specifically reviewed 12 long-term air service contracts for aircraft deployed at field missions, totalling $127 million, and 4 short-term air service contracts for the movement of cargo and peacekeeping troops to and from field missions, totalling $5.5 million. These represented the major contracts for the review period. The audit reviewed implementation by the Department of Peacekeeping Operations of the recommendations formulated by the International Civil Aviation Organization (ICAO) in 2000.[1] OIOS visited the United Nations Mission in Sierra Leone (UNAMSIL) and the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to assess safety arrangements in the field. OIOS also coordinated with the Board of Auditors, as mentioned in the report of the Board.[2]

II. Development of air safety standards

4. The Department of Peacekeeping Operations has developed an Air Operations Manual based on the ICAO Standards and Recommended Practices that most States have adopted for civil aviation operations. The Manual was reflected in the common Aviation Standards for Peacekeeping and Humanitarian Air Transport Operations (the Aviation Standards[3]), which were subsequently developed jointly by the Department and the World Food Programme in January 2003 to establish compatibility between the two organizations and to comply with ICAO recommendations.[4] Each peacekeeping mission has in turn developed its own Standard Operating Procedures, which take local conditions into account.

5. However, the Department of Peacekeeping Operations did not formally approve these Standard Operating Procedures, although its Air Transport Section had reviewed them. OIOS did not find evidence that the lack of formal approval by the Department resulted in a specific problem, but was concerned that the Department did not fully exercise its responsibility to monitor compliance by the missions with the Aviation Standards. This was particularly important because several officials at peacekeeping missions stated that United Nations air operations

should not be subject to ICAO civil regulations and, as such, there was a risk that the missions might not strictly adhere to the Department of Peacekeeping Operations Aviation Standards. According to these officials, United Nations air operations are similar to military air operations, therefore compliance with the ICAO Standards and Recommended Practices should not be required. Furthermore, they noted that while commercial airlines are regulated by the State Civil Aviation Authorities, United Nations air operations are conducted in troubled States, making compliance with the ICAO and the Aviation Standards difficult.

6. *The Department of Peacekeeping Operations clarified that its policy regarding charter of civilian registered aircraft was to ensure full compliance with internationally recognized standards of ICAO as well as the recommended aviation practices and regulations of the country of registration and the country of the operator. The Department of Peacekeeping Operations Aviation Standards clearly stated that they applied to all persons or organizations operating and/or maintaining civilian registered aircraft operating for and/or on behalf of the United Nations. The use of State (military) aircraft providing services to the United Nations was governed by the general terms and conditions of a standard letter of assist for provision of air transportation services and was not suited for inclusion in the Aviation Standards. With respect to the lack of formal approval by the Department of Peacekeeping Operations of the peacekeeping missions' Standard Operating Procedures, the Department stated that notwithstanding the review of individual Standard Operating Procedures normally performed by the Air Transport Section, the Department was currently conducting a comprehensive review of all missions' Standard Operating Procedures.* OIOS was satisfied with the Department's clarifications and will follow-up on the results of the comprehensive review exercise.

III. Delegation of authority and staffing issues

7. The Air Transport Section is responsible for establishing United Nations air safety standards and administering long-term contracts for aircraft stationed in peacekeeping mission areas for periods generally exceeding one year. Disbursement for long-term contracts totalled $153 million from July 2002 to June 2003. The Section was established in September 2003 in line with the ICAO recommendations. However, development of the Section was hampered by the absence of a chief. The post remained vacant for more than one year and the individual eventually appointed in September 2003 resigned in February 2004. In addition, although ICAO recommended that the Section's staff be increased to at least 12 qualified professionals from the four assigned at the time of the ICAO 2001 review,[5] the Section had only six professional staff in March 2004. ICAO had also recommended the recruitment of staff with appropriate civil aviation backgrounds;[6] but of the six staff members, five had military aviation backgrounds and only one had a civil aviation background.

8. The Movement Control Unit in the Department of Peacekeeping Operations administers short-term contracts, including those for cargo airlift and for the deployment, rotation and repatriation of peacekeeping troops and their equipment. The cost of such contracts from July 2002 to June 2003 was approximately $70 million.

9. The Aviation Safety Unit in the Department of Peacekeeping Operations is responsible for: promoting air safety awareness; providing advisory services to the Department management for air safety matters; implementing accident prevention programmes through safety assistance visits and surveys of missions; and monitoring the occurrences reported by field aviation safety officers, who implement mission aviation safety programmes. In compliance with the ICAO recommendations, the Unit was established as an independent advisory unit not involved in day-to-day aviation management, which is carried out by the Air Transport Section, the Movement Control Unit and the peacekeeping missions. However, the post of Chief of the Aviation Safety Unit has been vacant since November 2003, which, coupled with the prolonged absence of an Air Transport Section chief, made it difficult for the Department to develop and sustain a sound strategy for air safety in the view of OIOS (Recommendation 1).

10. Field aviation safety officers are responsible for advising peacekeeping mission senior management on aviation safety matters, reporting aviation safety occurrences and safety hazards to the Unit, and establishing and monitoring the accident prevention programme. Currently, the field aviation safety officers only serve their designated peacekeeping missions.

11. There was only one aviation safety officer at the Mission in Sierra Leone. When absent, he is replaced by a staff member of the Mission aviation section. However, this arrangement did not guarantee the independence between safeguarding air safety and air operations, as required by the Aviation Safety Manual, section 1.2.2.

12. At MONUC, only 5 of the 15 approved aviation safety officer posts were filled, and at the time of the OIOS visit, only 2 of the aviation safety officers were actually present in the Mission area. The audit team observed that at one MONUC location, an occurrence had not been reported for more than two weeks, which is well beyond the acceptable lead time. The aviation safety officer stationed at this location was on leave. MONUC and Department of Peacekeeping Operations officials stated that they were fully aware of the staffing situation and were actively interviewing candidates. They cited a lack of qualified candidates and the limited success of their attempts to obtain staff on loan from Governments. OIOS noted that there was no alternate plan to optimize existing resources by, for example, reassigning aviation safety officers from one location to another on a weekly basis (Recommendation 2).

13. Some 40 aircraft are deployed to the West Africa region, which covers the Missions in Sierra Leone, Liberia and Côte d'Ivoire. In the opinion of OIOS, a regional aviation safety office would be more cost-effective than deploying aviation safety officers at each Mission because these three Missions are located close to each other. As pointed out in the ICAO review, consistency in the application of the Department of Peacekeeping Operations aviation safety programme would be improved since a common methodology for surveying air safety would be applied in all three Missions. OIOS is aware that such an arrangement would require peacekeeping missions to share direct and administrative support costs and to design a common reporting procedure (Recommendation 3).

IV. Monitoring of safety occurrences

14. The Aviation Safety Unit conducted 12 safety assistance visits in 2002, but only one in 2003 owing to insufficient staff resources and the rescheduling of visits at the Missions' request.

15. The Aviation Safety Manual prescribes that the Unit will prepare risk and trend analyses and air safety lessons learned based on the safety occurrences collected by field aviation safety officers. In October 2003, the Unit automated the collection of safety occurrences in a Lotus Notes database, which is also intended to function as a central repository of air safety information, including vendor performance and aircraft inspection reports. The Unit planned to provide each field air operation section with read access to the database, but only for their particular missions. The Unit intended to disseminate consolidated safety occurrences to all peacekeeping missions every quarter. In the view of OIOS, read access to the entire database should be made available to all peacekeeping missions on a real-time basis to maximize the benefits of the database (Recommendation 4).

16. Based on the ICAO and United Nations standard for determining the level of risk related to air operations in peacekeeping missions, the Department of Peacekeeping Operations developed a risk analysis module using information provided by the Aviation Safety Officers at peacekeeping missions. On the basis of the returns received from the Missions (128 occurrences reported in 2003), the Aviation Safety Unit prepared a report on trend analysis that was submitted to the Department's senior management in June 2004. The risk analysis was divided into 15 pre-selected categories. For example, emergency response capability and the search and rescue categories were identified as high risk for all peacekeeping missions. *The Department of Peacekeeping Operations commented that the Unit would continue to prepare and circulate that report on a quarterly basis in compliance with the established procedures.* However, OIOS noted the Unit had not been able to formulate trend analyses and lessons learned owing to the lack of resources. Furthermore, safety publications and annual reports on safety issues — which the Aviation Safety Manual identified as examples of the most effective tools for accident prevention — had not been issued. The Unit should ensure that these important tools for accident prevention are made available to peacekeeping missions and the Department of Peacekeeping Operations aviation management at least once a year (Recommendation 5).

17. OIOS also noted that occurrences attributed to specific vendors were not included in the vendor performance reports, which the Department of Peacekeeping Operations and the Procurement Division use in decision-making relating to procurement and contract matters. In the opinion of OIOS, this is a weakness which should be corrected in order to ensure that a vendor performance report reflects the United Nations experience with the vendor accurately and in a timely manner (Recommendation 6).

V. Pre-registration of air service vendors

18. Vendors wishing to participate in bids for the provision of air services must be pre-registered with the Department of Peacekeeping Operations before they are considered for inclusion in the vendor database maintained by the Procurement

Division. The pre-registration requirement exists only for the procurement of air services, owing to the safety risks involved. Pre-registration is based upon satisfactory review by the Air Transport Section of the documentation submitted by the vendor. These documents include, among other things: the air operations certificate issued by the vendor's State civil aviation authorities, which states the approved nature of operations and aircraft type; the operations manual approved by the civil aviation authorities, in which key air safety features, such as crew training, quality assurance programme, air safety maintenance plan and handling of dangerous goods, are detailed; the last five years of safety records; and various insurance documents.

19. Visits to the vendor sites, which are ordinary aviation industry practice to confirm the conclusions of the documentation review, were infrequent owing to budgetary constraints, according to the Air Transport Section. OIOS believes that, considering the safety risks involved and the materiality of the contract amounts, resources should be made available to the Section for regular visits to prospective vendors. These visits should be coordinated by the Air Transport Section, the Movement Control Unit and the Aviation Safety Unit to ensure adequate consideration of both operational and safety issues (Recommendation 7).

20. There were about 230 pre-registered vendors in the Air Transport Section database; however, only about 30 vendors were participating in United Nations invitations to bid on a regular basis. In the view of OIOS, evaluations of vendor capability to provide technically acceptable air services need to be updated for vendors which had not responded to invitations to bid for at least two years. The Section agreed with the OIOS observation and was in the process of purging some 100 inactive vendors from the pre-registration database. OIOS believes that the Air Transport Section should periodically (at least once every two years) update the pre-registration database (Recommendation 8).

21. OIOS reviewed six bids that were posted on the Procurement Division web site from December 2003 to January 2004 (bids Nos. 867, 881, 887, 907, 922 and 923) and found that the Division had invited vendors who were not pre-registered with the Air Transport Section and therefore were not registered on the Procurement Division vendor roster. For example, the Procurement Division file for bid No. 923 showed that eight unregistered vendors had been invited to bid in addition to 109 registered vendors.

22. OIOS further noted that the Procurement Division specifically requested the Air Transport Section to evaluate the pre-registration eligibility of four vendors who had responded to each of the six bids. Three of these vendors failed to include in their initial submissions information such as the current air operations certificate, the operations manual translated into English and the safety records for the five preceding years, as required by the Section. The resubmissions requested by the Section through the Procurement Division were also incomplete and OIOS noted that the Section decided to proceed to the technical evaluation of bids without considering these three vendors, although the Procurement Division did not agree.

23. The Air Transport Section was concerned that the Procurement Division's last minute requests to pre-register vendors would leave the Section with little time to assess whether the vendors met operational and safety requirements. The Section was also concerned that while safety and operational factors were the only factors to be considered in evaluating vendors for pre-registration, the Procurement Division's

requests seemed to be based on the lower prices offered by the vendors in bids Nos. 867 and 881. The Division argued, however, that its mandate requires that it encourage competition and identify opportunities for cost savings, while ensuring that contract award to a vendor is contingent upon successful completion of registration. Moreover, for the Division to undertake adequate market research and pre-registration of new vendors, it requested the Air Transport Section to allow 120 days for the procurement process — from submission of approved requirements to positioning of the aircraft — but the Division was generally allowed only 40 to 60 days. Therefore, in the Division's opinion, the shortage of staff in the Section, time constraints related to requirements of peacekeeping operations and incomplete submission of the required documentation by the vendors, all contributed to the fact that these vendors were not pre-qualified in a timely manner. Based on these comments, OIOS recommends that the Air Transport Section and the Procurement Division jointly define reasonable milestones for the procurement of air transportation services to allow sufficient time for vendor pre-qualification (Recommendation 10).

VI. Certification of cargo aircraft for transporting passengers

24. For over 10 years, the Department of Peacekeeping Operations has been procuring cargo aircraft to transport passengers. Despite specific objections raised by the Aviation Safety Unit since 2000 for the fear of passenger safety, the Air Transport Section has continued to requisition cargo aircraft — the MI-26, IL-76 and AN-26 — for transporting both cargo and passengers, stating that the necessary safety requirements were met. At MONUC and UNAMSIL, about 50,000 United Nations peacekeeping troops and staff members were transported by cargo aircraft in 2002. As of 31 January 2004, eight MI-26, four IL-76 and eight AN-26 aircraft were deployed at six peacekeeping missions. The total value of the corresponding contracts was $74 million.

25. However, according to the Aviation Safety Unit, any alteration made to a cargo aircraft to permit the transportation of passengers must be certified by the operators' national civil aviation authorities in the form of an aircraft-type certification and authorized by the cargo aircraft manufacturer. According to the Unit, the Department of Peacekeeping Operations did not take these steps, which are required because of the much more rigid safety requirements for transporting passengers than cargo. In fact, the invitations to bid used for procuring MI-26, IL-76 and AN-26 aircraft clearly state that the civil aviation authorities' aircraft-type certification and the manufacturer authorization are required.

26. The Air Transport Section stated that when an adequate civil aviation authority aircraft-type certification has been issued, the manufacturer authorization does not carry regulatory authority and is therefore unnecessary. To ensure that adequate aircraft-type certification to transport passengers on cargo aircraft has been obtained, the Section requested confirmations from the civil aviation authorities concerned. Regarding MI-26 aircraft, the Section requested and obtained a document dated 19 November 2002 from the Permanent Mission of the Russian Federation stating that "the Russian civil aviation authorities approved in June 2001 MI-26 to carry personnel for the support of peacekeeping operations." The Ukrainian civil aviation authorities issued an authorization for the IL-76 to transport "United Nations passengers". In 2000, the Section also sought confirmation from

the Ukrainian civil aviation authorities that the eight AN-26 aircraft were certified for passenger transportation. The Ukrainian civil aviation authorities replied in September 2000 that: "this letter is to confirm that [vendor name] operates AN-26. Chapter 2.7 of the operations manual permits transportation of passengers not exceeding the number of seats equipped with seat belts". Based on this confirmation, the Section allowed personnel to be transported on AN-26 aircraft. At MONUC, 14,246 personnel were transported on IL-76 aircraft and 7,700 on AN-26 aircraft, respectively, during 2002. At UNAMSIL, 27,196 passengers were transported on MI-26 aircraft.

27. The former Air Transport Section senior officer, who dealt with the aforementioned aircraft-type certifications, stated that the States in question issued special certifications acknowledging that air services for United Nations peacekeeping missions are, unlike civil aviation, paramilitary activities conducted in remote, unique and dangerous environments. Field aviation officers also stated that peacekeeping missions have used these cargo aircraft to transport personnel without suffering major accidents, proving that aircraft-type certification was not critical to air safety. These officers also noted that, considering the operational requirements for transporting cargo and personnel, it would be much more expensive to transport cargo and passengers on separately certified aircraft.

28. According to the Aviation Safety Unit, there are only three possible aircraft-type certifications — passenger, cargo and "combi". "Combi" certifications relate to aircraft initially designed for passengers that were subsequently converted to carry cargo as well. The Unit noted that MI-26, IL-76 and AN-26 cargo aircraft should not have been procured by the United Nations for the purpose of transporting passengers because the special certifications for MI-26, IL-76 and AN-26 cargo aircraft for "peacekeeping operations" or "United Nations passengers" obtained from the Russian and Ukrainian civil aviation authorities (see para. 26 above) did not fall into the passenger or "combi" types.

29. In line with the Unit's position, in June 2003, the Russian civil aviation authorities confirmed in writing to the Department of Peacekeeping Operations that their 2001 approval of the MI-26 for transporting passengers was exclusively for emergency evacuation related to natural and technical disasters and that regular passenger transportation on MI-26 was not approved. With regard to AN-26, OIOS found that chapter 2.7 of the Operations Manual, as translated into English by the vendor and submitted to the Air Transport Section for pre-registration, was misleading in that it appeared to support certification of passenger transportation on AN-26 aircraft as long as the number of seats equipped with safety belts was available. OIOS found that the title of chapter 2.7 was "minimal crew composition" and therefore the reference to people on board concerned the crew only. The Aviation Safety Unit informed OIOS that representatives of the vendor, when discussing passenger certification of the AN-26 aircraft in June 2003, advised the Department of Peacekeeping Operations that: "the United Nations should review its use of the AN-26 for the transport of passengers and continue to use it only for the transport of cargo".

30. The Department of Peacekeeping Operations has attempted to obtain a clear ruling under the ICAO Standards and Recommended Practices in order to conclude if the special type certifications the United Nations had obtained for AN-26, IL-76 and MI-26 aircraft were adequate and if manufacturer approval was mandatory.

However, according to the Department, the ICAO Standards were not conclusive on these issues.[7]

31. In 2002-2003, there were two massive fatal accidents involving "combi" aircraft, although these accidents were not related to United Nations peacekeeping operations. In May 2003, the cargo ramp door of an IL-76 opened in mid-air over the southern Democratic Republic of the Congo, the Mission area for MONUC, killing over 100 passengers.[8] This prompted the Department of Peacekeeping Operations to issue to the peacekeeping missions a ban on transporting passengers on IL-76 aircraft until further notice. An MI-26 crash in August 2002 killed over 100 Russian troops onboard and prompted an investigation in Russia, which disclosed that Russia had banned passenger and troop transportation on MI-26 aircraft since 1997. In August 2003 the Air Transport Section notified all peacekeeping missions that transporting passengers on IL-76, MI-26 and AN-26 cargo planes would be gradually reduced and completely prohibited by April 2004. Furthermore, on 5 December 2003, the Department of Peacekeeping Operations circulated to all peacekeeping missions a cable instructing that effective 1 April 2004, all cargo type-certificated aircraft should only be used for transporting cargo, except for flights conducted under conditions of emergency evacuation, as defined by a threat to life or loss of limb. In the opinion of OIOS, the Department of Peacekeeping Operations should also establish strict procedures to ensure that the pre-registration of aircraft is based on worldwide acceptable safety requirements (Recommendation 9).

32. Subsequent to the MI-8MTV helicopter crash which killed all 21 passengers and 3 crew members onboard at the United Nations Mission in Sierra Leone in June 2004, OIOS reviewed whether the 49 M-8MTV helicopters contracted by the United Nations since 2002 (aggregated contract value of about $150 million) were adequately certified to carry passengers. The review did not disclose any exceptions.

VII. Technical evaluation of bids

33. For long-term contracts, vendors are required to submit their safety records for the past five years. However, OIOS found that the Air Transport Section had not established criteria, such as maximum number of accidents, seriousness of accidents and adequacy of corrective actions, for accepting these records, but indiscriminately accepted all the safety records provided by the vendors. The Section conceded the need for a better methodology for reviewing vendor safety records. OIOS also found that safety records were not required for short-term contracts, which is questionable considering that safety requirements also exist in short-term contracts (Recommendations 11 and 12).

34. Contract No. PD/CO/44/01, valued at $14 million, involved the provision of four helicopters to MONUC during the period 2001-2003. After the contract was awarded, the vendor submitted a request to replace three of the four helicopters for technical reasons. The Air Transport Section and the Procurement Division agreed with this request without the Section having performed a technical evaluation of the proposal concerning the three new helicopters. The Section officer in charge of this case stated that the necessary documents were checked at the peacekeeping mission level. However, in the view of OIOS, the verification performed at MONUC, which took place after the aircraft had been positioned, presented the risk that the

peacekeeping missions might accept the vendor's helicopters which did not meet the elements of technical evaluation because rejection and replacement of the helicopters would cause delays in meeting operational requirements (Recommendation 13). *The Procurement Division confirmed that the requests for replacement of aircraft were forwarded to the Air Transport Section for its review as a standard practice.*

VIII. Use of brokers

35. The Department of Peacekeeping Operations guideline for technical evaluation and the standard invitation to bid document both state that air operations contracts should be awarded only to companies possessing full operational control of air operations. According to the Department Aviation Standards, full operational control is "the exercise of authority over the initiation, continuation, diversion or termination of a flight in the interest of the safety of the aircraft and the regularity and efficiency of the flight". Generally, the United Nations does not use brokers for air transportation services because it is unclear which of the brokers or their subcontractors possess full operational control. According to some Department aviation officials, brokers give insufficient assurance on compliance with air safety standards owing to the fact that, unlike air operators, they are not subject to governmental regulations and scrutiny. Exceptionally, however, the United Nations allows brokers to participate in bids for short-term cargo movement contracts because they could be more competitive than air operators. *The Procurement Division stated that the brokers used for the provision of freight forwarding cargo movements were required to provide, for safety reasons, as a part of their bid submission, exactly the same documentation required from air operators.*

36. The Aviation Safety Unit informed OIOS that the vendor who executed the long-term contract PD/CO044/01 for the provision to MONUC of four helicopters with crew and maintenance services operated more as a broker of air transportation services than as an air operator. The Unit visited the vendor and found that the crew and maintenance personnel, who were employed by the subcontractor, were not using the operations manual of the vendor who had been awarded the United Nations contract on the basis of its operations manual meeting the United Nations air safety requirements. The Unit considered this evidence that the vendor did not possess full operational control. The Unit was also concerned about the subcontractor's less stringent safety standards and the contractor's failure to provide the crew and maintenance personnel with necessary training before executing the contract. Therefore, the Unit recommended to the Air Transport Section that the contract be terminated. However, OIOS noted that the Section did not accept this recommendation, stating that the contract stipulated that the vendor would bear all responsibility for the contract. In the opinion of OIOS, the Air Transport Section position did not adequately protect the United Nations against the subcontractor's lack of compliance with the Organization's safety requirements and related risks.

37. In order to ensure that the United Nations safety requirements are consistently met, OIOS recommended that when aircraft and personnel are subcontracted by the company awarded the United Nations contract, the Department of Peacekeeping Operations should clearly require vendors to certify and monitor that their subcontractors comply with the United Nations air safety requirements. *The Department of Peacekeeping Operations did not accept this recommendation,*

stating that it did not authorize brokers to undertake long-term charter operations or passenger movements under short-term contact. It was a requirement that the air operator certificate holder, registered with the Department of Peacekeeping Operations, maintain the operational control of the aircraft at all times and retain responsibility and accountability for its effective and efficient performance. That practice was in compliance with accepted international commercial air transport standards. The Department of Peacekeeping Operations further advised that the use of brokers for the short-term cargo movements was also under review. OIOS accepted the Department's clarification, but found it useful to bring this case to the attention of management for closer scrutiny of vendors in future.

IX. Contract management

38. The vendor awarded contract PD/CO/44/01 deployed three helicopters at MONUC a total of 77 days after the planned deployment date (one helicopter was late for 17 days and two others for 30 days). According to the contract, the United Nations was entitled to collect liquidated damages of up to $1.4 million. When notified of the delay by the Air Transport Section on 3 August 2001, the Procurement Division sent an official communication to the vendor stating its intention to collect the $1.4 million, but subsequently did not follow up. OIOS noted that in 2001 the Procurement Division recovered $531,000 under another contract for similar deficiencies. The Division explained that the deployment delay relating to PD/CO/44/01 was not considered to be under the vendor's control because the Ukrainian Government had requested additional inspections of the helicopters. Moreover, the liquidated damages amount had been offset against the value of other capital equipment provided by the vendor at its own cost. OIOS recommends that the Procurement Division fully document the reasons for not having followed up on the recovery of liquidated damages for contract PD/CO/44/01 and apply consistent methods to the collection of liquidated damages from vendors in the future (Recommendation 14).

39. Information on vendors' performance, especially when impacting air safety, should be communicated to all aviation offices involved and ultimately to the Procurement Division, which is the office designated to demand that vendors take necessary corrective actions in meeting air safety requirements. The OIOS review of a sample of MONUC vendor invoices from June 2002 to February 2003 showed that the Air Transport Section certified four payment deductions because aircraft were not available for service owing to technical or maintenance problems for more than the five days per month allowed under United Nations contracts. OIOS, however, found that the records of these deductions were kept individually by the Air Transport Section desk officers and not centrally in the Section. In addition, these records were not reflected in the vendor performance reports and were not communicated to the Procurement Division. As mentioned earlier, occurrences attributed to a specific vendor should be reflected in the appropriate vendor performance report and used as part of decision-making in contract matters (Recommendation 15).

40. OIOS noted that in two instances peacekeeping mission officials accepted the aircraft and signed off on the initial aircraft inspection report without having seen the related contracts stipulating that United Nations air safety requirements be adhered to by the vendors. Some air safety requirements were specific to each

contract. Officials at MONUC and UNAMSIL stated that the Department of Peacekeeping Operations did not provide them with a copy of the contracts before positioning the aircraft. The Air Transport Section officials stated that those situations had occurred because contract signing had been delayed for minor clarifications and logistical reasons. OIOS believes that when the final version of the contract is not ready before aircraft positioning, the Department of Peacekeeping Operations should provide the mission with the most recent draft contract and other relevant documents describing the air safety requirements (Recommendation 16).

41. A prerequisite for air operations is the existence of aviation operations officers and ground terminal services, such as, inter alia, ramp controlling, marshalling, positioning, parking, fuelling and firefighting. However, OIOS found that in Kigali, an officer whose function was unrelated to air operations was performing such operations despite heavy flight schedules. In Lubero, Democratic Republic of the Congo, hand-held fire extinguishers were not provided until months after air operations had commenced. In Kindu, Democratic Republic of the Congo, owing to communication equipment malfunctions which lasted for more than two weeks, daily flight information had not been made available to the air terminal officers until less than an hour before the actual landing of the aircraft. (Daily flight information should be available 12 hours before aircraft arrive.) In Bukavu, Democratic Republic of the Congo, air operations officers were not provided with cellular phones and some flights had to return after taking off because bad weather conditions at the destination could not be communicated to the officers. According to MONUC air operations officers, a deployment plan stating basic ground terminal services had been prepared but was not implemented owing to the lack of personnel and communication equipment and the low priority assigned to ground air terminal services by the Mission. The Department of Peacekeeping Operations should establish a procedure requiring all peacekeeping missions to certify the availability of critical ground terminal functions before commencing air operations in new landing sites. In the meantime, the Department should correct the weaknesses identified at MONUC without delay (Recommendations 17 and 18).

42. During November 2003, 721 commercial and 174 military flights took off from MONUC. OIOS found that about 60 per cent of these flights were to transport non-routine cargo and to accommodate urgent requirements and VIP movements. MONUC officials stated that the large number of non-routine flights was due to the frequent changes in requirements, the low level of infrastructure and the sheer size of the Mission area. They also stated that MONUC planned to strengthen its flight planning procedure by creating a joint movement control function to mitigate the problem of frequent non-routine flights. In the view of OIOS, the resolution of this issue should be given urgent consideration considering that the last three fatal United Nations accidents occurred on non-routine flights (Recommendation 19).

43. Communications between UNAMSIL and the Air Transport Section pertaining to air services contract management were lost or remained unanswered for months in some instances. In several cases, the intended recipient was not correctly identified, or there was no back-up for staff on leave. Although e-mail communication was available, most communication exchanges, including the lost ones, were via fax. Furthermore, UNAMSIL officials stated that their counterparts at the Section were not clearly identified. In the view of OIOS, the Air Transport Section should establish communication procedures with UNAMSIL detailing

contact points and back-up staff and using e-mail instead of fax (Recommendation 20).

X. Recommendations

44. As a result of this audit, OIOS makes the following recommendations, which are intended to enhance policy and procedures on safeguarding air safety standards while procuring air services for the United Nations peacekeeping missions.

Recommendations 1-3: Delegation of authority and staffing issues

45. The Department of Peacekeeping Operations should:

- Increase its efforts at filling vacancies in air operation management functions at Headquarters and in the field (AN2003/600/01/01)
- Help peacekeeping missions, such as MONUC, develop a strategy to maximize air safety coverage in the absence of sufficient staff resources. For example, aviation safety officers in large missions could rotate from one mission area to another on a weekly basis (AN2003/600/01/02)
- Consider establishing a regional aviation safety office in West Africa to alleviate the chronic insufficiency of aviation safety officer resources and improve the application of the Department of Peacekeeping Operations aviation safety programme (AN2003/600/01/03).

46. *The Department of Peacekeeping Operations concurred with recommendation 1 and confirmed that only the position of the Chief, Air Transport Section, was currently vacant. The recruitment process for this position is in progress. The Department stated that its ultimate goal was to attain full staffing to support peacekeeping operations.*

47. *The Department of Peacekeeping Operations stated that the implementation of recommendation 2 was in progress. The recommendation for rotating staff was not practical owing to the very low number of qualified aviation safety professionals in the missions. However, MONUC used that practice to meet urgent operational requirements on a case-by-case basis.*

48. *The Department of Peacekeeping Operations had acted on recommendation 3. The project paper for the implementation of the aviation safety regional concept for West Africa was under development and upon completion would be submitted to the Director, Logistics Support Division, for consideration. The Department expected to complete that paper by 31 October 2004.*

Recommendations 4-6: Monitoring of safety occurrences

49. The Department of Peacekeeping Operations should:

- Ensure that the Aviation Safety Unit provides read access to the aviation safety occurrences database to all peacekeeping missions on a real-time basis to disseminate and promote lessons learned at each peacekeeping mission (AN2003/600/01/04)
- Ensure that safety occurrence risk and trend analyses and other lessons learned are made available to peacekeeping missions and the Department of

Peacekeeping Operations aviation management at least once a year (AN2003/600/01/05)

- Establish a procedure for including aviation safety occurrences attributed to specific vendors in vendor performance reports in order to help establish patterns of aviation safety occurrences and to enhance contract decision-making (AN2003/600/01/06).

50. *With respect to recommendation 4, the Department of Peacekeeping Operations stated that since January 2002, the Aviation Safety Unit prepared and disseminated consolidated occurrences reports to all peacekeeping missions on a quarterly basis. The real-time read access to the aviation safety occurrences databases would be provided to all missions (including the new missions) after the full implementation of the module. That issue would be discussed further during the upcoming Aviation Safety Seminar, to be held in Brindisi, Italy, in October 2004.*

51. *The Department of Peacekeeping Operations concurred with recommendation 5, stating that the Aviation Safety Unit had not been able to prepare the Annual Safety Report for 2003 owing to the lack of staffing resources. The report for 2004 would be submitted during the first quarter of 2005. In addition to the Aviation Safety Unit action, the Air Transport Section, as part of its Quality Assurance Programme, had been disseminating a performance review on mission compliance activity, including compilations of corrective actions related to analysis of negative trends in Department of Peacekeeping Operations air operations. That review process had not been maintained owing to the lack of resources. However, the Department's Aviation Seminars had served as the ideal forum to discuss such cases with field mission aviation specialists in order to share knowledge, experience and lessons learned.*

52. *The Department of Peacekeeping Operations accepted recommendation 6, stating that the Aviation Safety Unit had been providing the Air Transport Section with mission occurrence reports for assessment of flight vendor's safety records, as part of the technical evaluation of bids. Analysis of occurrences reported was taken into account to determine the safety posture of the air carriers. The Department would review current performance report formats to include occurrence history during the next reporting period.*

Recommendations 7-9: Pre-registration of air service vendors and certification of cargo aircrafts for transporting passengers

53. The Department of Peacekeeping Operations should:

- Ensure that the Air Transport Section is provided with sufficient resources to conduct regular visits to prospective air service vendors. The visits should be coordinated with the Aviation Safety Unit and Movement Control Unit (AN2003/600/01/07)

- Ensure that inactive vendors are removed from the vendor pre-registration database maintained by the Air Transport Section and that the database is updated periodically, at least once every two years (AN2003/600/01/08)

- Strengthen its pre-registration procedure, especially regarding aircraft-type certification, to ensure that aircraft procured for passenger transportation

actually meet air safety requirements for passenger aircraft types (AN2003/600/01/09).

54. *The Department of Peacekeeping Operations agreed with recommendation 7, confirming that only a limited number of visits could be undertaken owing to the current staffing constraints. Significant resource augmentation would be needed to enable the conduct of a comprehensive assessment of at least 25 air operators annually. The additional resources would allow visits which would improve the vendor pre-qualification process and enhance continued and intensified surveillance (including safety and quality inspection) of air carriers.*

55. *The Department of Peacekeeping Operations concurred with recommendation 8, stating that the Air Transport Section had been updating the vendor registration database since 2002 to align the pre-qualification process with the Department's Aviation Quality Assurance programme that conformed to the International Convention on Civil Aviation. It was planned that, by the end of August 2004, over 100 air operators would be removed from the database and approximately 120 air operators would be retained. The updated roster would be sent to the Procurement Division for harmonization with its roster for commercial air operators.*

56. *With respect to recommendation 9, the Department of Peacekeeping Operations assured that it would place more emphasis on assessing the categorization of an air operator for passenger aircraft during the pre-qualification process. The Technical and Operational Evaluation Criteria checklist had been revised in March 2003 and required the operator to provide Operations Specifications as described in ICAO document No. 8335, which included a list of make and model of its aircraft authorized for scheduled air transport.*

57. The Procurement Division and the Department of Peacekeeping Operations Air Transport Section should jointly define reasonable milestones for air transportation services procurement to allow sufficient time for vendor pre-qualification (AN2003/600/01/10).

58. *The Department of Peacekeeping Operations concurred with the recommendation and has proposed a minimum of 10 days for vendor pre-qualification assessment, which is under discussion with the Procurement Division. The Procurement Division also agreed to the recommendation and stated that it would commence discussion with the Air Transport Section to explore mutually acceptable arrangements to be in place by the end of the third quarter of 2004.*

Recommendations 11-13: Technical evaluation of bids

59. The Department of Peacekeeping Operations should:

- Ensure that the Air Transport Section establishes clear criteria, such as maximum number of accidents, seriousness of accidents and adequacy of corrective actions, against which vendor safety records would be technically evaluated (AN2003/600/01/11)
- Ensure that vendor submission of safety records is required for all air service contracts, including short-term and long-term contracts (AN2003/600/01/12)
- Ensure that the Air Transport Section applies normal technical evaluation procedures to aircraft proposed for substitution before they are positioned in the field (AN2003/600/01/13).

60. *The Department of Peacekeeping Operations concurred with recommendations 11 and 12 and indicated that discussions were ongoing between the Air Transport Section and the Aviation Safety Unit in order to establish criteria for review and evaluation of the safety records submitted by the vendors. The new methodology would be implemented by 31 December 2004.*

61. *The Department of Peacekeeping Operations concurred with recommendation 13, stating that it would ensure full compliance with established procedures relating to substituted aircraft.*

Recommendations 14-20: Contract management

62. The Procurement Division should fully document the reasons for not following up on the recovery of liquidated damages for contract PD/CO/44/01 and apply consistent methods to the collection of liquidated damages from vendors (AN2003/600/01/14).

63. *The Procurement Division agreed to the recommendation and stated that it would conduct a further review of the circumstances in that case. The Procurement Division further stated that it would develop pre-defined criteria for imposition of liquidated damages by the end of third quarter of 2004 and would consult with technical offices for the issues that potentially affected positioning of aircraft.*

64. The Department of Peacekeeping Operations should:

- Ensure that the records of vendor payment deductions for unsatisfactory service are centrally maintained by the Air Transport Section and communicated to the Procurement Division for inclusion in vendor performance reports (AN2003/600/01/15)
- Ensure that copies of air operation contracts are available at the peacekeeping missions before the positioning of aircraft and aircraft inspections. When the final version of a contract is not yet available, a draft contract or other relevant documents describing air safety requirements should be provided to the field (AN2003/600/01/16)
- Establish a procedure whereby peacekeeping missions must certify the availability of critical ground terminal functions before commencing air operations in new landing sites (AN2003/600/01/17)
- Monitor actions taken by MONUC to assure critical air terminal functions at Kigali, Kindu, and Bukavu (AN2003/600/01/18)
- Monitor actions taken by MONUC to strengthen flight planning procedures in order to reduce non-routine flights (AN2003/600/01/19)
- Ensure that the Air Transport Section: (i) establishes communication procedures with UNAMSIL detailing contact points and back-up staff; and (ii) uses e-mails instead of fax to ascertain effective communication between the two offices (AN2003/600/01/20).

65. *The Department of Peacekeeping Operations concurred with recommendation 15. Within the limitations of personnel resources, the Air Transport Section will establish a central recording system to facilitate the reporting on unsatisfactory services to the Procurement Division.*

66. *The Department of Peacekeeping Operations concurred with recommendation 16. It is now standard practice that, where a contract is not available to the Air Transport Section prior to positioning of an aircraft at the field, a draft contract or other relevant documents will be provided to the mission.*

67. *The Department of Peacekeeping Operations stated that recommendation 17 had been implemented prior to the audit. The Department pointed out that the Chief Administrative Officer/Director of Administration and the Chief Aviation Officer were responsible, through the risk management process, for ensuring that landing sites were properly assessed. A booklet on Standard Generic Airfield Job profiles and aviation support equipment had been developed by the Air Transport Section in 2002 to guide the missions.*

68. *The Department of Peacekeeping Operations concurred with recommendations 18 and 19 and will monitor compliance with established procedures to enhance efficiency in air operations activities.*

69. *The Department of Peacekeeping Operations stated that recommendation 20 had been implemented and communication between UNAMSIL and the Air Transport Section had improved significantly.*

(*Signed*) Dileep **Nair**
Under-Secretary-General
Office of Internal Oversight Services

Notes

[1] Report of ICAO: Review of aviation safety in Department of Peacekeeping Operations operations.

[2] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 5* (A/58/5), vol. II, para. 118.

[3] Formally entitled AVSTADS by the Department of Peacekeeping Operations.

[4] Recommendation 1.4.4/1 of ICAO review of aviation safety in Department of Peacekeeping Operations operations.

[5] Recommendation 1.4.8/2 of ICAO review of aviation safety in Department of Peacekeeping Operations operations.

[6] Recommendation 1.4.2/1 of ICAO review of aviation safety in Department of Peacekeeping Operations operations.

[7] ICAO Standards and Recommended Practices: Part 1 of ICAO Rule: Type Certification 1.2-1.4.

[8] The company operating this particular IL-76 is an active vendor for MONUC.

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Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba

Letter dated 8 September 2004 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to enclose the text of Cuba's report on the implementation of General Assembly resolution 58/7, entitled "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba" (see annex).

I should be grateful if you would have this letter and its annex circulated as an official document under item 29 of the provisional agenda of the fifty-ninth regular session of the General Assembly.

(*Signed*) Orlando **Requeijo Gual**
Ambassador
Permanent Representative

* A/59/150.

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Annex to the letter dated 8 September 2004 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

Report of Cuba on United Nations General Assembly resolution 58/7: "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba"

Havana, 8 September 2004

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Introduction

The accumulation of more than four decades of suffering for the Cuban people, resulting from their sovereign decision to resist the embargo imposed upon them, thereby preserving their independence and affirming their right to fashion their own model of development, is viewed with complete disdain by the Administration of United States President George W. Bush.

The 12-year-old, and now virtually unanimous, condemnation by the United Nations General Assembly of this genocidal mechanism — referred to euphemistically by the United States authorities as an "embargo" — is consistently ignored.

Nor does the Government of President Bush pay heed to the questions raised by its policy towards Cuba among broad sectors of American society, who are calling, with increasing determination, for that policy to be changed. Not only does this policy seek to stifle the Cuban people and influence their relations with third countries, but it also prohibits and restricts certain essential freedoms of the American people, some of which are even enshrined in their Constitution.

The period addressed by this report (the second half of 2003 and the first half of 2004) will be remembered as one of the most bitter and hostile periods in the history of this monstrous crime, which is called an "embargo".

The new measures introduced during this period by the United States Government have taken their place alongside the vast network of laws and regulations that have constituted the embargo against Cuba for more than four decades, and reveal its desperation at the failure of its attempt to isolate Cuba and subjugate its people through hunger and disease. The measures are intended as a means to implement the plan to dominate the Cuban nation that has guided the activities of sectors of the far right in the United States for more than a century.

Such measures also continue to feed the hatred and thirst for vengeance of a minority and extremist group of Cuban origin, which does not hesitate to resort to terrorist practices against the people of Cuba, and to which President Bush owes a debt of gratitude, for its direct help in organizing and carrying out the fraud perpetrated in the 2000 elections in the state of Florida.

The following are some of the most notable events that occurred during the period covered by this report:

- On 30 September 2003 the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury issued a regulation banning the publication of scientific articles originating in countries subject to a sanctions regime by the United States Government, including Cuba. OFAC did so under the pretext that the publishing process — that is, "the revision, modification and printing" — would result in a "service" that added value to the articles in question, thereby violating the United States Trading with the Enemy Act. Following strong pressure from the United States scientific and academic community, the measure was suspended on 5 April 2004.

- On 10 October 2003, President Bush announced, from the White House, the establishment of the so-called Commission for Assistance to a Free Cuba, as

well as measures to tighten controls and increase vigilance in implementing the bans imposed on travel to Cuba.

- On 9 February 2004, the United States Treasury Secretary, John Snow, introduced a further extraterritorial measure, announcing, in Miami, that OFAC would immediately block the property under United States jurisdiction of 10 companies, "owned by the Cuban Government or controlled by the Cuban Government or Cuban nationals", and specializing in promoting travel to Cuba and sending gifts. Those affected by the measure included companies based in Argentina, the Bahamas, Canada, Chile, the Netherlands and the United Kingdom of Great Britain and Northern Ireland.

- On the same day, the United States Treasury Secretary described the extent of the implementation of the United States President's decision to tighten controls over travel to Cuba, specifying the number of flights inspected, the fines imposed and the goods confiscated.

- On 26 February 2004 President George W. Bush signed Presidential Proclamation 7757, which introduced restrictions on the departure of vessels for Cuba from United States territory. The regulations for their implementation, issued by the United States Coast Guard Service on 8 July 2004, openly stated that the Service's objective was to "improve the implementation of the embargo against the Government of Cuba". The penalties include fines of up to $25,000 or five years' imprisonment, or both, as well as the confiscation of violators' vessels.

- During this period, the United States Government applied considerable pressure on banking institutions of third countries in order to hinder and impede Cuban financial transactions. Cuba uses such foreign exchange income to import medicine, food and other consumables, as well as the inputs that it requires to run its economy and provide basic social services.

- The United States Government recently fined Union Bank of Switzerland $100 million for conducting financial transactions in dollars with certain countries, including Cuba.

- On 6 May 2004, President George W. Bush approved, in its entirety, the report of the so-called Commission for Assistance to a Free Cuba, which includes some 450 recommendations and proposals for new measures to overthrow the Cuban Revolution and install a puppet regime under the full control of the United States, which would exercise total domination over the Cuban nation.

- Finally, 30 June 2004 brought the entry into force of regulations strengthening the measures announced on 6 May, which constitute a violation of Cuban independence and sovereignty, as well as an unprecedented escalation of the massive and flagrant violations of the human rights of the Cuban people, of Cubans living in the United States, and of United States citizens themselves.

The economic, financial and commercial embargo applied and reinforced against Cuba by 10 United States administrations, and which now make up a complex framework of laws and regulations, is part of a broad policy of hostility and aggression waged against the very existence of the Cuban nation, viewed as a sovereign and independent development endeavour, pursued by Cubans and for Cubans.

The voracious appetite of the United States for Cuba and its natural and human resources dates back to the very emergence of the American Union, when efforts began to annex Cuba through very disparate measures, ranging from failed attempts to purchase the country, to the provision of encouragement and support to annexationist forces within the Spanish colony, to direct military intervention and occupation.

The United States Governments of the nineteenth century never recognized the Republic of Cuba in Arms. On the contrary, on several occasions they impeded and cut off support channels set up by United States citizens and Cuban émigrés in that country to assist the Cuban people's struggle for freedom.

After the United States military intervention of 1898, which robbed the Cuban people of the right that they had earned to freedom after 30 years of unequal struggle, a "republic" was set up in Cuba that was forced to endure the humiliating guardianship afforded by a constitutional amendment, the Platt Amendment, which legitimized the island's neo-colonial status. For more than half a century, United States administrations subjected the Cuban people to their imperial domination and to the exploitation of the island's national wealth by its monopolies, aided by the complicity and submissiveness of successive corrupt Governments. They also imposed brutal military dictatorships whenever it was necessary to quell, through bloodshed, the just demands and the profound anti-imperialist sentiments that had grown stronger among the Cuban people.

A Creole oligarchy that was dependent on, and benefited from, the country's neo-colonial control structures showed that it was incapable of directing or even participating in a plan for genuine national development.

Following the triumph of the profound social revolution in 1959, the imperialist circles in the United States, which controlled the island and which rapidly perceived the example of the Cuban Revolution as a clear challenge to their plans for hegemonic domination, resolved to use their influence, through successive Republican and Democratic administrations, to initiate, support and gradually intensify over the years an undeclared war, aimed at re-imposing their domination over the Cuban nation or, failing that, simply crush its rebellious spirit.

The war in the economic, commercial and financial spheres was started against Cuba even before the revolutionary Government had adopted any measures affecting the United States companies which controlled the economic life of the country.

Alongside the encouragement, organization and funding of a mercenary invasion at Playa Girón (the Bay of Pigs); alongside numerous acts of terrorism — including sabotage against economic and social targets, assassination attempts against the main leaders, armed attacks on defenceless populations and families, and even acts of bacteriological aggression, alongside vicious and mendacious media campaigns conducted against the Cuban Revolution; alongside the support given to subversive forces and the funding of the counterrevolution, both on and outside the island; and alongside the cruel encouragement of illegal emigration, the complex and sinister network of measures, laws and programmes that today make up the unilateral embargo by the United States against the Cuban people began to take shape.

In 1992 the Torricelli Act was adopted, suddenly cutting off trade in medicine and food between Cuba and the subsidiaries of United States companies based

outside United States territory, and introducing severe restrictions on maritime navigation to and from Cuba, thereby institutionalizing, through force of law, provisions that were clearly extraterritorial.

The application of the Torricelli Act was a severe blow to the Cuban people. It was conceived with the cynical and criminal intention of giving the coup de grâce and ruining a national economy that was undergoing severe difficulties following the sudden dissolution of its economic, commercial and cooperative ties with the former Soviet Union and the formerly socialist countries of Eastern Europe. When this gamble on the collapse of the Cuban revolution proved to be another failure in the policy of anti-Cuban hostility implemented by United States Governments, it was then decided to step up the economic, political and diplomatic war against the Cuban nation to a level unprecedented in the history of United States foreign policy.

In 1996 the Helms-Burton Act was adopted. One of its effects is to improve the various mechanisms of repression, extending them to the smallest economic, commercial and financial links between United States companies and the island. It also increases the number and scope of provisions having extraterritorial effect, with the aim of pursuing any transactions or business deals that might benefit the Cuban economy; tracks and penalizes foreign investors in Cuba; authorizes the funding of hostile, subversive and aggressive acts against the Cuban people, including a war of disinformation waged by radio, enhancing the broadcasts of the inaptly named Television and Radio Martí; and provides for a programme designed to destroy the constitutional system created by the Cuban people and impose a "regime change" that would realize the goals of imperialist circles in the United States aimed at dominating the Cuban nation.

Since that time, a long succession of further hostile and aggressive actions and measures has been introduced with a view to plugging any gap or opening found in the fence or wall of sanctions set up to blockade Cuba.

According to figures released in 2004 by the National Statistics Office of the Republic of Cuba, 69 per cent of the resident population was born after 1959, which means that about 7 out of 10 Cubans were born and have lived through the unilateral sanctions regime imposed under the United States embargo.

According to an economic study carried out by the National Economic Research Institute, with the help of specialists from various Cuban ministries, companies and other institutions, the direct damage suffered by the Cuban people as a result of the embargo amounts to more than $79,325.2 million. It should be stressed that this calculation includes only the direct damage inflicted on our economy, and therefore does not take into account most of the indirect economic harm caused by these measures.[1] If the country had enjoyed access to those resources, their multiplying effect would have raised the living standard of its people.

For example, the study does not include the value of items whose production ceased due to the restrictions or the onerous conditions imposed on Cuba for obtaining investment or trade credits. If Cuba had been able to receive the average terms and conditions granted to other countries of a similar level of economic

[1] See the annex, which contains a breakdown by sector of the damage and harm caused to the Cuban economy by the embargo imposed by the United States of America (cumulative figures up to 2003).

development in the region, the country's economy would show a much higher development level.[2]

It is inconceivable that, in a climate in which the international community is joining forces through cooperation to achieve essential and urgent development goals for all, the world's most powerful country economically and militarily, motivated by petty interests relating to its internal politics and its ambitions for world domination, is determined to withhold the scarce resources that could enhance the well-being and hasten progress on the part of a people that has clearly demonstrated its desire to share its own modest achievements and accomplishments, on an unconditional basis, with any country in the world.

Cuba does not represent any threat or danger to the United States. The world and broad sectors of American society are perfectly well aware of this fact. Not many people are still taken in by the false and hypocritical pretext of invoking the so-called protection of human rights as justification for the fierce hostility against the Cuban people.

How can the Government responsible for the most terrible and premeditated attacks against policies and programmes designed to promote economic and social development, well-being, security and the right to life of all Cubans seek to call itself a defender of Cuban human rights?

How could the Government that fabricates falsehoods in order to justify its "pre-emptive wars", which are in fact imperialist wars for the control of resources and geographical areas of considerable strategic importance, advance the cause of "democracy" in any part of the world?

Who will be convinced of the commitment to the "rule of law" by the Government that rides roughshod over the basic tenets of international law and disregards the agreements reached by important and global multilateral forums such as the General Assembly and the World Trade Organization; the same Government that demands immunity from the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in order to secure impunity for the brutal and humiliating practices ordered by its authorities for treating prisoners in Iraq and those who remain in arbitrary detention in the

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[2] A study conducted by the Centre for Research on the International Economy (CIEI) and the Centre for the Study of the Cuban Economy (CEEC), aimed at calculating the approximate level of direct United States investments lost by Cuba during the period 1990-2002, showed that during an initial three-to-five-year phase, annual investments might have reached a minimum of $100 million and a maximum of $400 million per year. The study looked at the value of United States investments in Cuba at the end of the 1950s and direct investment flows from the United States to countries of the Caribbean (Dominican Republic and Costa Rica) that could serve as reference points for the Cuban economy.
This is almost the same as the amount that was invested in the Cuban economy by other countries from 1990 onwards and that fuelled the development of major branches and sectors such as nickel, oil, tourism and telecommunications.
A 2001 report by the United States Trade Commission includes an estimate of the net flows that would go to the Cuban economy "in the absence of United States sanctions". Even though it underestimates the value of the Cuban economy, the Commission estimates the annual direct investment flow from the United States to Cuba at between $20 million and $40 million. Even on that basis, the investment flows lost over the period of 10 years would amount to between $200 million and $400 million.

concentration camps established in territory illegally occupied by the United States Naval Base in Cuba's Guantanamo Bay?

How can a Government that has exacerbated the inequalities and injustices within American society, supported the dismantlement of affirmative action programmes for disadvantaged and marginalized minorities, such as its Latino and African-American citizens, and, with its social and fiscal policies designed to benefit the wealthy, caused the number of Americans without medical insurance to increase at a rate of 1 million per year "contribute" to the progress and well-being of the Cuban people?

It is impossible for the Bush Administration to maintain its hostile policy of the embargo and attacks against Cuba by invoking the so-called need to promote and protect human rights on the island. The Government that has made the most significant and rapid contribution to the undoing and discrediting of the international system for the promotion and protection of human rights has no credibility, no morals and no right to proceed in such a manner.

The Cuban people reject both the political and social organizational model that seeks to re-establish the United States Government on the island with a view to regaining the means for interfering and dominating and the neo-liberal formulas that that Government is attempting to impose on the restructuring and operation of the Cuban economy. Cubans believe that the plan proposed by the powerful circles of the superpower does not solve the problems or meet the historical needs and interests of the Cuban nation and fails to respond to its aspiration to continue building a more just, democratic and equitable society.

In accordance with the provisions of article 2 (c) of the Geneva Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, the embargo imposed against Cuba by the United States Government constitutes an act of genocide and, therefore, is an offence under international law.

There can be no ambiguity as concerns the condemnation of all acts of genocide and the need to put an end to them. The Cuban people cannot endorse any attempt to attenuate the rejection of the brutal embargo to which it is subjected.

Cuba trusts that the overwhelming majority of governments around the world will, as nations and decent and honest individuals from far and wide have done, continue to recognize the vital importance of opposing the continued existence of an illegal and hostile policy of unilateral attacks that undermines the very foundations of multilateralism.

While the Cuban people know full well that the principal guarantee of their existence and development as a sovereign and independent nation resides in their determination to remain unified and to resist and overcome all threats or aggression, they are sincerely grateful for the support and solidarity of the international community. That support, as well as providing clear ethical, moral and legal guidance, shows that the battle that they are currently waging is of universal importance and serves the common objective of creating a better world, which is not just a possibility but rather a necessity to ensure the survival of mankind.

This report devotes a long section to the new measures announced on 6 May 2004 and the regulations for their implementation made public on 16 June, in view of their importance in intensifying the embargo. It also sets forth, in six other

sections, a series of examples which prove irrefutably that the embargo is a monstrous creation that has a painful impact on the everyday life of the Cuban people.

1. New measures against the Cuban people and the economy

As if the actions of the United States Government were not enough to prove its disregard for the present and future of the Cuban people, its disrespect for the will of the international community and its contempt for the legitimate interest of the American people in establishing normal and reasonable relations with Cuba, on 6 May 2004, during President Bush's presentation of the report of the so-called Commission for Assistance to a Free Cuba, new measures were announced. The report consists of a plan devised by the United States Government with a view to depriving Cuba of its independence and sovereignty by intensifying economic and political aggression in order to trigger internal instability, promote direct intervention to destroy the Revolution and perpetuate United States domination over the Cuban people.

The report contains new measures that are overtly interventionist and humiliating for the Cuban people and which significantly reinforce the economic embargo against the country and increase the violations of the human rights of its inhabitants, of Cubans residing in the United States and of United States citizens themselves.

These measures reinforce the unjust and discriminatory restrictions imposed on Cubans residing in the United States, the only national group in respect of which the Government of that country, in flagrant violation of its own Constitution, arrogates the authority to determine the kind of relations that its members can have with their relatives and country of origin.

As well as intensifying the aggressiveness of the policy against Cuba, extending the embargo and seeking to implement "regime change", the report, consisting of six chapters and over 450 pages, crudely violates Cuban sovereignty by dictating the form to be taken by its State and economic structures, political system, social organization and legal order. It could not contain more lies, resentment and frustration directed at Cuba or interfere more in Cuba's internal affairs.

More restrictions on travel to Cuba

The new anti-Cuban measures announced on 6 May, the implementation of which was made public on 16 June by the Office of Foreign Assets Control (OFAC) of the United States Treasury Department, include a number of actions and provisions designed to reinforce the restrictions on travel to Cuba by Cubans residing in the territory of the United States by increasing the limitations on family contacts and to diminish, even further, important sources of income for the island, particularly those linked to its principal industry, namely tourism.

The Bush Administration has decided:

- To further limit the granting of permits issued for educational trips and academic exchanges to United States citizens and institutions, restricting them to the university level for stays of more than 10 weeks and ensuring that the issuance of the permits is solely dependent on whether the academic projects

in question "directly support United States policy goals" regarding Cuba or, in other words, the overthrowing of the Cuban Revolution;

- To eliminate the possibility for American citizens to travel as "fully-hosted guests";

- To reduce the number of visits to Cuba by Cubans residing in the United States from one trip per year to one every three years. In addition, a specific permit is required for each trip, rather than the general permit required prior to the implementation of the new restrictions. This represents a direct attack on efforts to unite Cuban families and foster their relationships;

- To determine that Cubans who have recently arrived in the United States may travel to Cuba only three years after emigrating;

- Additional trips will not be permitted even in urgent situations;

- To limit the stay in Cuba of Cubans residing in the United States to 14 days;

- To limit the number of Cubans residing in the United States who have the right to visit Cuba, on the basis of an arbitrary reduction of the categories of relatives legally recognized as members of Cuban families. The United States Government ruled that the only relatives who can be visited in Cuba are "grandparents, grandchildren, parents, siblings, spouses and children". In other words, from now on, cousins, aunts or other close relatives will not be considered eligible for visits, regardless of the closeness of their emotional ties with Cubans residing in the United States;

- To reduce the amount of money that Cubans residing in the United States may spend daily when visiting Cuba from $164 to $50. Only $50 will be authorized for transport costs incurred inside the country during the course of the 14-day stay;

- To eliminate the permit authorizing the import into the United States of up to $100 worth of Cuban goods solely for personal use or consumption. It is now totally prohibited for travellers from Cuba to bring back into the United States any items acquired in Cuba, regardless of whether those items were bought or received as gifts;

- To restrict to 44 lb (19.8 kg) the baggage allowance for authorized travellers to Cuba, unless OFAC expressly authorizes them to exceed that weight;

- To eliminate the general permits issued for participation in amateur and semi-professional competitions held in Cuba under the auspices of an international sports federation. Henceforth, OFAC will authorize such activities only by issuing a specific permit and on a case-by-case basis. It is no longer possible to take part in specialist workshops and clinics, whether related to sports or other activities;

- To support activities in third countries that contribute to the tourist industry in Cuba designed to discourage nationals of those countries from visiting the island.

With the introduction of the new restrictions and the travel bans for American citizens and Cubans residing in the United States, the United States Government is once again undermining the basic human rights enshrined in the International Bill of

Human Rights, the Universal Declaration of Human Rights and both International Covenants. The violation of article 12 of the International Covenant on Civil and Political Rights is flagrant as regards freedom of travel, to which persons lawfully within the territory of any State are entitled, a principle that was reaffirmed by the General Assembly in its resolution 57/227, entitled "Respect for the right to universal freedom of travel and the vital importance of family reunification".

In that resolution, the most representative principal organ of the United Nations called upon all States to guarantee "the universally recognized freedom of travel to all foreign nationals legally residing in their territory" and reaffirmed that "all Governments, in particular those of receiving countries, must recognize the vital importance of family reunification and promote its incorporation into national legislation in order to ensure protection of the unity of families of documented migrants".[3]

No other people have been subjected, as have the Cuban people, to similar levels of discrimination and political manipulation of their migratory relations by successive United States Governments. Under the criminal Cuban Adjustment Act and other government provisions, the United States authorities subordinate bilateral relations in the area of migration to their goals of destabilizing and discrediting the Cuban Revolution. Cubans who manage to enter United States territory illegally, regardless of whether or not the United States Interests Section in Havana has denied them an emigrant visa, or who, during the course of their unlawful transit to the United States, have committed a crime against individuals or property, will be welcomed and automatically granted legal residence in that country.

The recent measures adopted by the Bush Administration, measures that reinforce the discriminatory treatment of the Cuban emigrant community, show that the much vaunted preferential treatment accorded to Cubans who emigrate illegally to the United States and to those who benefit from the limited available quotas for legal emigration is not motivated by humanitarian concerns but rather by political manipulation.

As well as impeding the full exercise of human rights, the travel restrictions and bans that the United States Administration reinforces through such measures are illegal under its own laws. Travel to Cuba is not a question falling within the purview of administrative jurisdiction that a United States President can alter at his pleasure. This matter has remained subject to a law in force in that country since 2000.

The Bush Administration has rigorously tightened the embargo against Cuba. According to available information, at the end of last year, for example, the Office of Foreign Assets Control (OFAC) employed five times as many agents to pursue and investigate violations of the embargo against Cuba as it assigned to trace the financing of Al-Qaida.

Between 1990 and 2003, OFAC opened only 93 investigations related to international terrorism, while launching 10,983 inquiries with a view to preventing United States citizens from exercising their right to travel to Cuba. Following those 93 terrorism investigations, OFAC fined the accused a total of $9,425. However, it

[3] Only three Governments, including that of the United States, the so-called champion of freedom and human rights, opposed the adoption of General Assembly resolution 57/227.

ordered United States citizens who had visited the island without permits from the United States Treasury Department to pay a total of $8 million.

In a report dated 9 February 2004, which can be found on its web site, OFAC noted with satisfaction that its Civil Penalties Division had at the time a docket of nearly 2,000 actions relating to violations of the Cuban embargo, and that the majority of such actions had resulted in monetary penalties. The report also stated that, between 10 October and 30 November 2003, OFAC had issued 348 new notices opening penalty actions for similar activities.

It is common to find reports and articles in the American press about United States citizens prosecuted for visiting Cuba. In April 2004, for example, two retirees from the state of Vermont, Wally and Barbara Smith, were obliged to pay a fine of $55,000. They were accused by OFAC of travelling four times to Cuba, spending money on the island and writing a book, *Bicycling in Cuba*, published in 2002.

The paranoid persecution of their own citizens knows no bounds. At the beginning of February 2002, OFAC informed Fred Burks and his girlfriend that they must pay a fine of $7,590 because they had visited the island in December 1999. Fred Burks, who has worked as an interpreter for Presidents William Clinton and George W. Bush, refused to pay the fine and is now awaiting a further, probably harsher, penalty.

In March 2003, OFAC announced that it would not renew permits for educational exchanges, i.e. so-called "people to people" exchanges. One obvious consequence of the implementation of this restriction is that, between January and June of the current year, 26 per cent fewer United States citizens travelled to Cuba than during the same period in 2003. In July of this year, following the new measures approved by President George W. Bush, there was a 52.4 per cent reduction in their number as compared with the number in July 2003.

It is widely known that approximately five years ago tourism became the Cuban economy's principal source of revenue, that development of this sector revitalized the other economic activities of the country, and that a large section of the Cuban population supplements its basic livelihood and benefits from social services financed, directly or indirectly, through the expansion of this industry. Furthermore, it is common knowledge that in the last decade tourist activity experienced an average annual increase of 10 per cent, in spite of the ruinous effects of the embargo and the global economic crisis.[4] It is no accident that the new measures are designed to sabotage and further block this vital sector of the Cuban economy.

Preliminary studies conducted by the Ministry of Tourism of Cuba concerning the foreseeable effects of the restrictions announced on 6 May indicate that the number of Americans travelling to the country will be considerably reduced.

[4] Studies conducted in mid-2002 by the Brattle Group, of Washington, D.C., concluded that, if restrictions on travel to Cuba were lifted, 2.8 million Americans would travel to the island annually. The document, entitled *The Impact on the U.S. Economy of Lifting Restrictions on Travel to Cuba*, also analysed the economic benefits to be realized by United States airlines, travel agencies and tour operators should such restrictions be abolished.

According to the Ministry's calculations, this will lead to a reduction in revenue of between $27 million and $38 million.[5]

In the case of travellers of Cuban origin, the new measures restrict not only the number of times they may visit their country (one visit per year every three years), but also how much money they may spend in Cuba. The study by the Ministry of Tourism estimates that by the end of 2004, the impact on the country will rise to $66 million.

In brief, because of the abusive measures described above, the Cuban economy will lose a revenue stream of between $93 million and $104 million from the tourism sector, beginning on 30 June 2004. This does not include the harm done by the actions in third countries encouraged by the United States authorities to deter tourism to Cuba, which damage it has so far been impossible to measure.

More restrictions on family remittances

There is wide international consensus on the importance to development, in particular in countries of the South, of remittances sent to families by members who have emigrated, and on the need for all States, both recipients and senders of remittances, to provide the possibilities and ensure the procedures needed to perform the usual operations involved in this type of international transfer of funds between family members living in different countries.[6]

Scarcely three years ago, in a speech entitled "Remittances as an instrument of development", the President of the Inter-American Development Bank (IDB), Mr. Enrique Iglesias, stated:

> "Remittances are an expression of the link between groups of emigrants and the communities from which they come. They are a means of promoting development, providing an important source of predictable capital, to both Governments and families, and through their role in maintaining better living standards in recipient households."

A study by IDB dated May 2004 entitled "Sending Money Home: Remittances to Latin America and the Caribbean" analysed the vital importance to numerous economies of the region of the flow of remittances from the United States and provided estimates by country. For example, $2,217 million were received last year by the Dominican Republic; $2,316 million by El Salvador; $2,106 million by Guatemala and $1,425 million by Jamaica.

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[5] An optimistic assessment that allows for only 50 per cent fewer travellers than in 2003, or 42,000 people, staying for an average of five days each and spending an average of $130 per capita, concludes that revenue would thus be reduced by $27 million. Allowing for a reduction in the number of arrivals of up to 70 per cent in 2004, the economic impact will rise to $38 million.

[6] General Assembly resolution 57/227 calls upon "all States to allow, in conformity with international legislation, the free flow of financial remittances by foreign nationals residing in their territory to their relatives in the country of origin". It also calls upon them "to refrain from enacting, and to repeal if it already exists, legislation intended as a coercive measure that discriminates against individuals or groups of legal migrants by adversely affecting family reunification and the right to send financial remittances to relatives in the country of origin".

The United States Government, stopping at nothing to inhibit the development potential of the Cuban people, took it upon itself to attack by means of these new measures something as natural and sensitive as remittances and family ties.

The recommendations put forward by the Commission for Assistance to a Free Cuba on 6 May, supported by the OFAC provisions of 16 June for their implementation, limit the range of both senders and recipients of remittances. Formerly any United States citizen, or Cuban residing in the United States, could send remittances to Cuba. Now only United States citizens and Cubans residing in the United States, having immediate family members on the island, may do so, subject to the Bush Administration's arbitrary definition of Cuban family members (grandparents, grandchildren, parents, siblings, spouses and children).

As a result, United States citizens are deprived of the right to send money to Cuban friends, and Cubans residing in the United States will be the only emigrants prohibited from sending economic aid to an ageing aunt, a cousin, another member of the extended family or, quite simply, a friend.

Among other measures that will affect the sending of remittances, demonstrating the Bush Administration's lack of respect for the dignity and political rights of the Cuban people, is the prohibition against the sending of remittances or parcels by Cubans residing in the United States to any relative who is an "official of the Government or a member of the Communist Party". Following the irrational logic of this restriction, it is easy to imagine the case of a 70-year-old woman living in Cuba who would be obliged to relinquish her political rights so as to receive the remittance sent to her by a son who had emigrated to the United States.

Under the OFAC regulations of 16 June, the amount that an authorized traveller may carry to Cuba in remittances has been reduced from $3,000 to $300. Before that, anyone visiting Cuba legally could carry remittances for up to 10 Cuban families, and many emigrants used this method.

It is obvious that, even though it is supposedly still possible to transmit the same amount of money via established banking institutions so licensed by the United States Treasury Department, all these new measures designed to limit the number of remitters and recipients and strictly control the methods of transmission will have the direct effect of reducing the sum of remittances finally received by the Cuban people.

The cruelty displayed by the United States Government through its restriction on family remittances stands in contrast to the unlimited resources sent to mercenaries acting in favour of its interests inside Cuba, and their family members, as indicated in the report cited above.

Another of their methods is particularly shameful and reminiscent of the "denunciations" promoted by Hitlerian gangs so as to increase the effectiveness of their round-ups and subsequent repression of Jews and Communists. The Bush Administration has decided to offer "rewards" to those who report on "violators" of the new regulations and, as if that were not enough, will direct its federal agencies to conduct "sting operations" to neutralize and suppress any activity "in violation" of the restrictions.

A growing number of Cubans residing in the United States do not share the hostility of the United States Government with regard to Cuba, and wish to maintain

normal and free-flowing relations with their country of origin and their family members, unrestricted by threats, denunciations or censure.

Furthermore, the new measures restricting remittances and parcels are contrary to the majority feeling on the part of the United States legislature, which, in recent years, has approved proposals for their elimination. On 7 July 2004, for example, the House of Representatives approved, by 221 votes to 194, an amendment in this regard submitted by Representative Jeff Flake (a Republican from Arizona) to the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act for the 2005 fiscal year.

More territorial harassment

As a pretext to uphold their unilateral policies of economic coercion, the United States authorities maintain that all countries have the right to choose their trading partners. Nevertheless, in the case of the Cuban embargo, it is obvious that the implementation of that policy greatly exceeds the simple rejection of a trading partner.

The Cuban embargo is an extremely aggressive and proactive policy that discourages and is hostile to foreign investment or any other type of commercial or financial links that the country is forging with the rest of the world. The current United States Government adopted, in their entirety, the recommendations of he report of the so-called Commission for Assistance to a Free Cuba, which calls for the strengthening of the effectiveness and extraterritorial reach of measures designed to suffocate the Cuban economy.

The first chapter of the report, devoted to measures to defeat the Cuban Revolution, recommends that the sanctions contained in Title IV of the Helms-Burton Act, which prohibit the granting of visas to enter the United States to foreign investors in Cuba, should be "aggressively pursued". It has even been decided to assign additional personnel and resources to carry out those provisions of the Act.

Furthermore, the report urges the United States authorities to conduct a rigorous analysis to determine whether the implementation of Title III of the Helms-Burton Act is contrary to United States interests or whether it would hasten the demise of the Cuban Revolution. In practical terms, it raises the possibility of bringing actions in United States courts against businessmen from third countries doing business with Cuba. This has so far been deferred thanks to international pressure.

In this connection, the new measures also provide for a country-by-country review, probably with a view to imposing selective categories of penalties and dividing the international community in its refusal to implement the extraterritorial measures of the Helms-Burton Act.

A few days after the announcement of these new anti-Cuban measures, the United States State Department applied more oil to its machinery of threats and blackmail against investors in Cuba.

On 20 May 2004, the chairman of SuperClubs, the Jamaican hotel chain, received a disturbing notice from the State Department. The document reminded him that one of his hotel management contracts with Cuba contravened the provisions of the Helms-Burton Act, and that he and his family could therefore be

denied a visa for travel to the United States. In addition, it informed him that, upon entry into force of Title III of said Act, he might incur considerable losses as Title III allowed for the initiation of legal proceedings against any foreign investors or businessmen "trafficking" in property "confiscated" in Cuba since 1959 from United States nationals or Cubans who became naturalized United States citizens.

Consequently, SuperClubs decided to cancel its management contract, signed a few months earlier with the Cuban hotel chain Gaviota, Inc. for the Hotel Las Dalias, located in Playa Pesquero, Holguín Province.

Although Cuban businesses operating in the international market do so with a clear legal status and are legally registered in strict compliance with the requirements set forth in the legislation of the countries where they have established themselves and are doing business — business that in absolutely every case involves legal activities which fully respect internationally established norms and practices — the report of the so-called Commission for Assistance to a Free Cuba relentlessly seeks to inhibit and hamper their growth. In this connection, it recommends "neutralizing Cuban Government front companies" and to that end suggests establishing the Cuban Asset Targeting Group for the purpose of investigating new ways in which hard currency is moved in and out of Cuba.

Even before the announcement of the new anti-Cuban measures, the Bush Administration had taken steps to obstruct relations between our country and various banking institutions around the world, thereby blocking the revenue that Cuba obtained through tourism, acquisition of dollars sold in foreign exchange offices, and other services, and deposited in foreign banks.

The United States Government thus puts pressure on foreign banks to refuse to change United States dollars collected by Cuba into other currencies. The process of the exchange and transfer of hard currency is indispensable to the Cuban State, inter alia for importing food and medicines, bearing in mind that the embargo prevents foreigners visiting Cuba from using credit cards or travellers' cheques issued by banks or other financial institutions of the United States, which are precisely the organizations that control that market. Remittances sent from overseas and payments made by foreign visitors on the island must in most cases be in cash.

Those funds, which come from absolutely legitimate sources, are channelled directly, inter alia, into purchasing fuel or other materials essential to the functioning of the national economy for progressively improving the people's standard of nutrition, and continuing to guarantee and increase universal access by the Cuban people to a high standard of basic services in the areas of education, health and social assistance and protection.

Other comments and necessary assessments

The report of the Commission for Assistance to a Free Cuba recommends devoting an additional sum of more than $59 million to increasing international campaigns against Cuba and to the financing of internal subversion and of the mercenaries on the payroll of the United States Interests Section in Havana, who are hypocritically referred to in the document as the "political opposition".

Without any sense of shame, they seek to promote collusion by the international community in the mobilization and channelling of resources for the financing and recruitment of new mercenaries to strengthen the fifth column of

Washington's anti-Cuban policies. The report thus seeks to obtain the "collaboration" of third countries in creating an "international fund for the protection and development of civil society in Cuba".

The report also calls for spending United States taxpayers' money to finance university scholarship programmes, in collaboration with the Organization of American States, "for the children of Cuban dissidents" — in other words, their mercenaries — "to study at Latin American universities".

Furthermore, on the basis of the lines of action proposed in the report, the United States Government would promote the financing of participation by non-governmental organizations from third countries in campaigns to discourage tourist travel to Cuba, a practice which Reporters Without Borders has been pioneering with instructions and financing from the United States Central Intelligence Agency (CIA) and the Miami terrorist mafia, and in campaigns of propaganda and lies against Cuba.

The report also discusses the allocation of $5 million to finance the holding of conferences in third countries, dedicated to promoting "transition" in Cuba. In other words, money is being guaranteed so that those who derive profits from the counter-revolution business in Cuba may continue to enjoy generous subsistence allowances, pleasurable stays in luxury hotels and trips around the world in first class.

Another very serious and provocative measure is the allocation of $18 million to the broadcasting of the ill-named Radio and Television Martí via a United States Air Force EC-130 Commando Solo aircraft, which constitutes an irresponsible and illegal provocation in violation of the law and international aviation and telecommunications rules. This escalation in radio-electronic aggression against the Cuban people began in August 2004.

Flimsily disguised as "assistance to a free Cuba", the report approved by President George W. Bush contains a detailed description of the measures that Washington would impose if it succeeded in taking over our country. Cuban society would be completely controlled by the United States, which would dominate every one of its activities, without exception. A comprehensive description of such an extreme form of interventionism would be interminable. The following are a few aspects of the American plan, to give an idea of the degree of servitude and exploitation to which it would seek to subject the Cuban people:

- One of the first steps to be taken by the so-called "transitional government" would be to return properties to their former exploiters, including housing and land coveted by the annexationist Batistian mafia;
- All areas of the economy would be privatized and would be controlled by a United States Government Standing Committee for Economic Reconstruction, to be established immediately;
- Subsidies and price controls on goods and services for the population would be eliminated;
- The social security and assistance regime would be dismantled, and pensions would not be paid;
- Privatization would be reintroduced in health and education services.

Deliberately seeking to discredit the unquestionable, internationally recognized achievements of the Cuban people in the areas of education and public health, the report calls for the creation, as part of the "transition" to be imposed upon Cuba, of institutions and services to improve health, nutrition, education and social services, through the introduction of "free enterprise" practices. It even goes as far as to consider encouraging involvement by United Nations agencies, funds and programmes in those plans.

The report avoids mentioning the fact that, in many countries, the commercialization and privatization of those basic social services, to which all human beings should be entitled, have been detrimental to the expansion of health-care coverage and to the achievement of the goal of education for all. This is the case in the United States, where 44 million people lack health insurance and guaranteed medical care.

Cuba's health-care and education systems achieved universal, high-quality free coverage many years ago, and are also undergoing profound upgrades in design and infrastructure in order to continue the process of revolutionizing them.[7]

The report ridiculously proposes that, during the aforementioned period of "transition", all children aged under five who have yet to be vaccinated against the main childhood diseases should be immunized. This formulation is simply nonsense; the whole world, and the United States authorities in particular, are perfectly well aware that all children in Cuba are vaccinated against 13 diseases before the age of two, something that the Washington authorities are unable to guarantee for children in their own country.[8]

The height of hypocrisy is that, while approving that measure, the United States authorities prevent Cuba from purchasing vaccines produced by United States

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[7] The Cuban Ministry of Public Health is currently decentralizing services of intermediate complexity, to improve the probability of survival in health-related accidents, and to ensure improved access and well-being for the community. Before long, hospitals will be able to devote themselves to dealing with more complicated health problems requiring special treatment and the use of the resources, facilities and costly technical means needed for that task. Improvements to the National Health Programme also include the strengthening of research institutions in that area, and new areas of work, particularly those dealing with projects related to the prevention of genetic diseases.
The *Human Development Report 2003* of the United Nations Development Programme (UNDP), which was devoted to the achievement of the Millennium Development Goals, ranks Cuba in fifty-second place on the human development index, above some countries in the region which have higher relative economic development. Cuba currently has the world's highest number of doctors per inhabitant (one doctor for every 168 inhabitants) and one of the healthiest populations in the hemisphere.
According to the Latin American Laboratory for Assessment of Quality in Education, Cuban students surpass the rest of the hemisphere's students in comparative national tests in the areas of languages, mathematics and physics.

[8] Practically 100 per cent of children in Cuba are immunized by means of 10 vaccinations provided free of charge, protecting them against 13 diseases: poliomyelitis, diphtheria, tetanus, pertussis, tuberculosis, typhoid fever, measles, rubella, mumps, meningitis B and C and viral hepatitis B. Our scientists have recently succeeded in producing a vaccine against haemophilus influenzae. Seven of these 10 vaccines are produced in Cuba, thanks to the development achieved by the biotechnology and pharmaceuticals industry, and some of them, such as the vaccines against meningitis B and C and haemophilus influenzae, constitute Cuban contributions to world science.

companies. The Department of the Treasury recently imposed a fine upon the United States biotechnology firm Chiron Corporation, which had to pay $168,500 just because one of its European subsidiaries had sold to Cuba, between 1999 and 2002, two types of vaccines for Cuban children. That was the largest fine paid this year by an enterprise based in the United States.

If the Bush Administration were really interested in protecting the health of Cuban children, it need only remove the barriers limiting Cuba's acquisition of paediatric vaccines or other medicines such as cytostatics, which are vital for the treatment of various types of cancer affecting children in Cuba.

In a worthy expression of the humanist inclinations of the Cuban people, while the imperialist forces controlling the Government in Washington bring bombs and death, suffering and torture to several of the world's peoples, more than 20,000 doctors, other specialists and health personnel from Cuba save the lives of hundreds every day, including many children, in 64 countries in the world.

On 21 June 2004, responding to the anti-Cuban measures which the United States Government has begun implementing, President Fidel Castro publicly offered the United States Government the possibility of providing care in Cuba to 3,000 poor United States nationals, the same number as died in the attacks on the Twin Towers in New York on 11 September 2001.

That offer, inspired by the ethics of solidarity which characterize the Cuban people, involves the provision of free medical assistance to save the lives of those United States nationals over a period of five years.

Cuba has achieved significant progress in terms of the well-being of its people despite the scarcity of resources, very limited foreign development assistance, and the absence of soft loans, and in the midst of a real battle to resist the brutal economic, financial and commercial embargo imposed upon it for more than 40 years by United States Governments.

The anti-Cuban report approved by President George W. Bush on 6 May 2004 reaches the summit of imperialist interference, with the United States authorities nominating themselves to help create new political institutions and to draft laws, regulations and even a new constitution of the Republic once they have destroyed the Cuban Revolution. Logically, everything has been prepared in accordance with the voracity of American capital.

Cubans remember very well, and with great indignation, that after the first United States military intervention in Cuba (1898-1902), the United States Government imposed a demeaning guardianship upon the birth of Cuba's first Constitution. The humiliating Platt Amendment was imposed as an appendix to that Constitution. Among other aberrations, it gave the United States full rights to intervene in Cuba whenever it perceived a danger to its interests. The Platt Amendment established the "legal" basis for the creation of the United States Naval Base, which illegally occupies part of the territory of the Cuban province of Guantánamo and is now the site of veritable concentration camps where the worst atrocities against human rights are being committed.[9]

[9] On 28 June 2004, the United States Supreme Court issued a ruling recognizing Cuban sovereignty over the territory of the Base.

The Cuban people also have not forgotten the type of "mutual benefit" that the United States has promoted historically in its commercial relations with Cuba. In 1903, it imposed upon Cuba a trade reciprocity treaty, under the threat of military intervention if it were not accepted. Needless to say, it was "reciprocal" only in name. Furthermore, under the stamp of the "Good Neighbour" policy of the 1930s, a new trade reciprocity treaty concluded in 1934 guaranteed advantages to the United States which were several times greater than those obtained by Cuba, and marked the death knell of the timid industrialization efforts by Cuba, which had taken place some years before.

Although we must not underestimate the effect that a presidential election year in the United States may have had on the adoption and submission of the report of the Commission for Assistance to a Free Cuba, it should be noted that the new measures that it contains transcend electoral motives and are consistent with the escalating hostility and aggression which have characterized the Cuba policy of the administration of President George W. Bush.

For the Cuban people, the reality is that the embargo has become more severe. As a result, the difficulties of everyday life are increasing, the barriers and sabotage affecting Cuba's socio-economic development plans are worsening, and the people's right to self-determination is seriously threatened. The destiny of a people is being put at risk in exchange for a few votes in Florida.

In fact, President Bush's brutal anti-Cuban measures may rebound against his hopes of re-election. The numbers of United States citizens of Cuban origin are growing daily, as is the number of other American citizens who are becoming convinced of the need to end the insane and aggressive anti-Cuban policy of the fascist gang which accompanies the current Republican administration; and those citizens may express their dissatisfaction on election day.

The report submitted and the measures adopted constitute a programme brazenly designed to overthrow the revolutionary process and recolonize Cuba, with blatant contempt for principles laid down under international law and the Charter of the United Nations.

2. The extraterritorial nature of the embargo policy

Since its initial implementation, the policy of the embargo imposed by the United States of America against Cuba has been clearly extraterritorial in nature. The violation of the principles of international law in force and, in particular, of the sovereign right of nations to pursue their economic, commercial and financial relations without outside interference has been a constant feature of this 45-year-long genocidal policy.

The immorality and fallacy of the claim by successive United States Governments that the embargo is a bilateral issue between the two countries becomes clear upon examination of the Torricelli and Helms-Burton Acts and the provisions that preceded them, the application of which has always entailed transgressions against the sovereignty of other nations.[10]

[10] Report of the Secretary-General on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba (A/58/287), of 18 August 2003.

Suffice it to say that, as early as 30 August 1961, a memorandum sent to President Kennedy by Richard Goodwin, his Cuban Affairs Adviser, stated that "we will intensify our surveillance of Cuban trade with other countries and especially U.S. subsidiaries in other countries; and then employ informal methods to attempt to divert this trade — depriving Cuba of markets and sources of supply".[11]

Then, as now, the United States Government applied its own legislation on an extraterritorial basis and aggressively persecuted companies or commercial or financial institutions that established or even planned to establish economic, commercial or financial relations with Cuba.

The impact of these measures has been felt in all areas of the country's economic life. There are sufficient examples that demonstrate this. Some of the more recent ones are described below:

- Imports of a quadruple animal-immunization vaccine, supplied to Cuba by the Netherlands firm Intervet, were discontinued because the United States Government informed that firm of the risk that it faced by selling its product to Cuba. The vaccine contains 10 per cent or more of an antigen manufactured in the United States. The directors of Intervet Holland were notified that continuing with sales could result in a heavy fine or, worse, the closure of their branch in the United States.

- In 2002,[12] complaints were made against the Zurich subsidiary of Xerox, which had refused to renew the leasing contract for a photocopier for the Cuban Embassy in Switzerland. Such a ridiculous example of the extraterritorial regulations imposed under the embargo was repeated in October 2003, this time in Asunción, Paraguay. After having provided all the details for the purchase of a Xerox photocopier, representatives of the company informed the Cuban Embassy in Asunción that it was unable to sell it the equipment on account of the prohibitions imposed by the embargo.

Faced with this denial of service, the Cuban Embassy approached the management of Ricoh in order to make the purchase. Once again, its attempts were frustrated because the company refused to sell the equipment to it on account of the restrictions imposed by the embargo.

If the preceding example seems absurd, the events that took place on 10 May 2004 in Ireland deny description. On that date, the company Hitachi Printing Solutions Europe refused to sell a simple printer cartridge to the Cuban Embassy in Ireland on the pretext that it was a subsidiary of an American company and was therefore unable to sell the item to Cuba.

The Canadian company Brenntag Canada Inc. announced that, from 27 January 2004, it would be unable to continue supplying chemicals to Cuba because it had been purchased by the American company Bain Capital USA, which claimed that, under the Helms-Burton Act, all sales of Brenntag products to Cuba must be discontinued. The chemical products affected by this policy include Abapet, a demulsifier used by the Cuban oil company Cuba Petróleo (CUPET) to dilute oil

[11] Department of State. Foreign Relations of the United States, Volume X, 1997, pp. 645-646.

[12] Report of the Secretary-General on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba (A/57/264), of 26 July 2002.

from Cuban oilfields which, as is widely known, has a high sulphur content. It should be pointed out that CUPET purchased approximately 270 metric tons of the product annually.

The American company Harbison Walker Refractories, having acquired Refractarios Mexicanos, a Mexican company that supplied the country with the refractory bricks used in cement furnaces, prohibited the marketing of any type of refractory bricks to Cuban companies in that field, which meant that those materials had to be sought in other markets with the resulting financial loss.

In 2003 and 2004, the national banking system pursued its efforts, so far in vain, to acquire the replacement parts needed to repair the 90 automated teller machines (ATMs) that were purchased in 1997 from the French company Bull.

Seven years ago, within the framework of the programme to modernize the Cuban banking sector, a contract was signed with that company for the purchase of over 400 ATMs, which would facilitate the public's access to cash from their salaries, pensions and other services. However, only 90 machines, valued at approximately 9 million French francs, could be bought because, in 2000, Bull sold its ATM manufacturing plant to the American firm Diebold, which prohibited further sales to Cuba.

The Ozone Research Centre, an affiliate of the National Scientific Research Centre, needed to obtain a microplate reader costing $27,000 manufactured by the American company Molecular Devices. Since the machine could not be ordered directly from that company, it was decided, in spite of a 25 per cent price increase, to acquire it from the British company Randox. The transaction could not be completed because the Randox agent in Cuba stated that he could not act as an intermediary owing to the embargo, because the United States Government obliged him to declare the destination of the merchandise.

As stated in this report, on 9 February 2004 in Miami, the Secretary of the United States Department of the Treasury declared that the Office of Foreign Assets Control (OFAC) "has identified and blocked ten entities that it has determined are owned or controlled by the Government of Cuba or Cuban nationals. They include entities organized and located in Cuba as well as entities organized and located in Argentina, the Bahamas, Canada, Chile, the Netherlands, and England." According to OFAC, this blockade was imposed because those entities had violated the terms of the embargo by using the Internet for advertising and selling tourist packages to Cuba to the United States public.

To cite an example, the United States Government froze the assets of Hola Sun Holidays Limited, a company whose head office is in Canada, because it had "promoted the illegal travel of United States citizens to Cuba". That decision "froze all the assets" of the company held by persons subject to United States jurisdiction and also prohibits anyone subject to that jurisdiction from initiating any transaction with that company without prior authorization from OFAC.

The justification for these measures was that United States agents had intercepted travellers without permits who had purchased their tickets from that company.

As a direct result of the measures, the Cuban company Universo received a telephone call from the Swedish company Netgiro, which was responsible for

monitoring and carrying out Cubanacán's electronic commerce transactions, informing it that, due to the recent inclusion of the latter on the "black list" drawn up by the United States Department of the Treasury, it was unilaterally terminating contracts with Cubanacán and retaining its funds to cover possible claims from third parties.

As evidence of the extraterritorial effect of the embargo, the company Acinox Inc. lost a number of its purchasers of exported carbon steel on account of the restrictions on trade with Cuban companies. Purchasers of Cuban stainless steel were also lost, owing to the ban on importing to the United States any goods containing components entirely or partly made using Cuban nickel.

The company Brake Bros., including Carigel and CES, a permanent client for pre-cooked whole Cuban lobster and lobster tails, was bought by an American investment bank. Consequently, it was instructed to remove from its line of products those of Cuban origin. This situation caused a loss of half a million dollars to the Cuban economy.

On 11 March 2004, Denis Coleman, the United States Consul-General in Bermuda, in an interview with VSB TV, accused the Bermudian Government of promoting economic relations with Cuba and stated that such actions could undermine its relations with his country. The threat by the United States arose from the establishment of regular charter flights between Cuba and Bermuda and the assumption that those flights would enable United States citizens to violate embargo regulations. In this case, a foreign Government is being directly and overtly threatened for having established commercial relations with another one merely because it is assumed that the agreements reached by the two companies involved might facilitate an increase in the number of trips to Cuba by American citizens.

In early 2004, the Cuban company Eleka, a manufacturer of electrical conductors, experienced a sharp fall in its supplies of high-density polyethylene (HDPE), a material used for insulating telephone cables. That situation called into question the completion of an important contract with the Telecommunications Company of Cuba (ETECSA). Through the Internet, Eleka found characteristics of the HDPE produced by Equistar and Dow that, according to its Committee of Experts, met production needs. It consequently established contact with executives from the company Asesoría Especializada en Sistemas de Extrusión (AESE) who, as well as being the company's suppliers, were knowledgeable in the field. Those executives then began to work with their contacts, first Equistar in the United States and then CTS in Canada.

As far as Equistar is concerned, in spite of the fact that the initial exchange of information with the intermediary went well, after having reviewed the transaction, its directors stated that they were not interested in supplying the raw material. Even more incomprehensibly, the Canadian company CTS also refused to supply HDPE, suggesting that the materials should be purchased from Equistar. It is clear that these companies, suspecting that the final destination of their products might be Cuba, decided not to pursue the sale.

As stated earlier in this report, in early May 2004, the United States Federal Reserve imposed a fine of $100 million against Switzerland's largest financial institution, UBS AG, for having violated United States sanctions against Cuba, the Libyan Arab Jamahiriya, the Islamic Republic of Iran and Yugoslavia. The Swiss

bank was accused of sending dollars to these countries while it was operating a business centre at its Zurich headquarters under contract to the Federal Reserve.

However, what really lay behind the penalty imposed on the Swiss bank? Using the most perverse, artful and hypocritical tactics imaginable, the United States Government is attempting to prevent Cuba from depositing in foreign banks dollars earned from retail cash sales, activities connected with tourism and other commercial services. Accordingly, Cuba would be unable to use those dollars to obtain medicines or foodstuffs or to import necessary supplies for its own shops, where its citizens, including those who receive remittances from family members residing in the United States, purchase products.

The United States Government is using this cunning ploy to pressure foreign banks to refuse to accept from Cuba funds that have been obtained entirely honestly and legally. Furthermore, it is promoting the publication in the press owned by Miami's terrorist mafia of the odious defamatory allegation that such funds might be connected with activities such as money-laundering and drug trafficking, which are being vigorously combated by the Cuban authorities.

As stated in the report transmitted by Cuba to the Secretary-General in 2003,[10] the Cuban public health system has been unable to purchase the sources of Ir-192 radioactive isotopes used for radiation treatment of cancerous tumours because the company Varian Medical Systems acquired the brachytherapy business of the Canadian company MDS Nordion, which formerly supplied brachytherapy equipment to Cuba.

In view of this situation, alternative sources of brachytherapy equipment were sought in Europe, and one machine was purchased from the Netherlands company Nucletron. After the transaction was finalized, the company's management stated that it could not deliver the computer attached to the machine because it had been manufactured in the United States and its export to Cuba was prohibited by the Government of that country.

The violation of international law and the most basic rules of free trade has been a constant feature of the embargo policy. The United States has attempted and continues to attempt, now more vigorously than ever, to involve the rest of the world in its genocidal policy. The facts detailed in this section illustrate the irrational and ridiculous extent to which the extraterritorial application of the embargo measures can be taken.

3. Impact on health

Since the revolutionary triumph in Cuba, the national health system has been a priority target of the United States embargo policy against the island.

The efforts of the Cuban Government to establish a free, accessible and ever more modern and efficient health-care system have been continuously threatened by restrictions on the acquisition of supplies and medical technologies of American origin which, in many cases, are the only examples of their kind available in the world. Added to this is the obstacle preventing access to advanced scientific and medical information, the refusal to issue visas allowing Cuban scientists to participate in events in the United States and the denial of authorization for American scientists to travel to Cuba for similar reasons.

Only the tremendous efforts, dedication to work and scientific training of Cuban health personnel have made it possible to maintain and even continually improve many of the patient care indicators.

This section describes a number of the most recent cases that illustrate the consequences of this genocidal and inhumane policy.

The care of children with cancer is one of the areas most severely affected by the embargo measures. The purchase of cytostatics, vital for the survival of these children, has been seriously affected because American multinationals have bought the pharmaceutical laboratories that formerly had sales contracts with Cuba.

The difficulties associated with the purchase of the I-125 isotope for the treatment of children with ocular cancer illustrate this problem. Faced with the shortage of this cytostatic drug, the Cuban public health system has, on occasion, been forced to send patients abroad for treatment, incurring huge financial expense and causing problems for family members.

Another problem affecting cancer patients is the lack of bone endoprostheses to replace limbs amputated due to tumours. For example, when front-line chemotherapy to treat bone tumours has been completed and the patient has responded well, conservative surgery, which involves removing the diseased bone while leaving the limb intact, may be carried out. However, Cuban doctors have been unable to carry out such operations because of the impossibility of obtaining so-called expandable endoprostheses. These increase in size as the child grows, meaning that patients are thus able to retain their limbs by using an internal prosthesis, thereby avoiding the emotional and psychological disturbances associated with amputation, particularly in adolescence.

These devices are requested on an individual basis and must be ready when the operation takes place. However, since they cannot be purchased in the United States, it is extremely difficult to obtain them in time.

Another major problem in the area of health care is the inability to restore to working order certain medical equipment manufactured in the United States that has ceased to function because of a lack of replacement parts. Such is the case for a number of X-ray machines, which are missing certain essential parts. The United States Department of Commerce prohibited the Canadian subsidiary of Picker International from selling those parts to Cuba because 27 per cent of their components were manufactured in the United States.

As regards clinical laboratory diagnosis, microbiology and other similar activities, the effects of the embargo continue to be felt and are on the increase due to the majority share (70 per cent) of United States companies in the manufacture of diagnostic equipment and reagents. For instance, the companies Beckman-Coulter, Dade-Behring, Abbott and Bayer do not allow the sale of their technologies, some of which are unique in the world, to Cuba. Consequently, the supplies needed for clinical laboratory work must be imported from the European market at a much higher price.

A recent example of this phenomenon involves the English company Oxoid, a supplier of laboratory reagents and culture mediums, whose principal shareholder became a company with United States interests. Through its distributor in Cuba, Oxoid was requested to provide the current market price for a group of reagents

required by the Cuban health system. It responded negatively to the request, stating that it could not supply the reagents owing to the restrictions imposed by the embargo, even though, until that moment, it had supplied the products with no difficulty.

Problems have been encountered in obtaining diagnostic means for the detection of a number of emerging diseases, for instance:

- Even the Pedro Kourí Tropical Medicine Institute has been unable to acquire the ThermoScript RT-PCR System kit, which is used to detect the coronavirus responsible for Severe Acute Respiratory Syndrome (SARS), from the American company Invitrogen;
- Restrictions imposed by the United States Centers for Disease Control (CDC) in Atlanta, in conjunction with the refusal of laboratories owned by the American companies Focus Technologies and PANBIO to supply diagnostic kits for the detection of IgM and IgG antibodies, have made it difficult to detect encephalitis caused by West Nile virus and Avian influenza.

All programmes designated as advanced-technology programmes, such as those involving transplants, cardiovascular surgery, nephrology and others, continue to be seriously affected due to the fact that many of the equipment components are made in the United States. Their acquisition requires the permission of the authorities of that country, who either do not grant it or simply delay in doing so. This has a serious impact on patients receiving care under those programmes.

The most recent antibiotics and other drugs such as Prostin (an agent that temporarily maintains arterial permeability until corrective or palliative surgery can be performed, in newborn infants with congenital cardiac defects, whose survival depends on this treatment) must be bought at higher prices on more distant markets.

Nor are Cuban children entitled to the benefit of the new inhalers for asthmatic crises, since the United States Government denies them that right.

The cost of scientific publications is increased due to the fact that they must be purchased in third countries. *Current Contents*, for example, a weekly publication containing the main contents of American scientific journals, has to be bought from a third country at a higher price. The same is true of *Annals of Tropical Medicine and Parasitology*, an annual subscription to which from the United States publisher is $275 lower than what Cuba must pay to a third country.

The Disarm Education Fund, a non-governmental organization (NGO), collaborates with Cuba in sending humanitarian aid for paediatric hospitals and organizes visits to the island by medical delegations to engage in exchanges with Cuban counterparts in those hospitals. The Fund applied for permission for the visitors to give lectures or train Cuban doctors. The application was denied.

The authorities in the United States Department of the Treasury ruled that those actions did not directly benefit the Cuban people and that such lectures and training constituted exportation of services to our country.

The United Nations Global Fund to Fight AIDS, Tuberculosis and Malaria is financing a programme of cooperation with Cuba that calls for the acquisition of antiretroviral drugs for patients in Cuba infected with HIV/AIDS.

The Global Fund indicated that the purchase of those drugs would be handled through the United Nations Children's Fund (UNICEF) and the International Dispensary Association (IDA), based on the preferential pricing obtained by those agencies.

The United States company Abbott, however, refused to supply two of the products needed to treat the patients (ritonavir and lopinavir+ritonavir), alleging that owing to the United States economic sanctions, its Government would not authorize the supplying of products to Cuba. As a result, the drugs, which would have cost $49,700 if bought from Abbott, had to be purchased in another country for $280,400, almost six times the Abbott price.

The Texas NGO Alliance International, which dispatches shipments of humanitarian aid for the Cuban public health system, was denied the right to send to the island a shipment of medical equipment and supplies constituting a prime necessity in Cuban hospitals. The licence contained an express prohibition against the shipment of surgical-instrument sterilizing equipment, X-ray equipment and a microhematocrit centrifuge.

The participation of Cuban officials and scientists in international meetings and events held in the United States has repeatedly been obstructed through the denial of entry visas. Such was the case of Dr. María Alfonso Valdés, who was to take part in a training course in El Paso, Texas, organized by the Pan American Health Organization (PAHO) on the topic of safe blood.

By an official communication dated 19 March 2004, the PAHO office in Havana informed the Ministry of Public Health that the course had been cancelled. The ground for the cancellation was that the United States Government does not grant visas to persons with Cuban nationality to be trained in the United States.

The embargo has also affected the participation of United States scientists in events held in Cuba. For example, from 9 to 13 March 2004 the Third International Symposium on Coma and Death was held in Havana. The United States delegation, which represented 40 per cent of the participants and was made up of approximately 70 scientists, was denied permission by the Government of the United States to travel to the island.

After seven years of investigations and after being convicted in April 2002 on 21 charges of violation of the embargo against Cuba, the Canadian citizen James Sabzali, in a new trial that came to a conclusion in February 2004, was sentenced, following a settlement in which he pleaded guilty, to a year's probation and a fine of $10,000.

Had Mr. Sabzali sold some product involving a strategic United States secret or that might have jeopardized the country's national security? No. The grounds for this long trial, as a result of which Mr. Sabzali might have faced a sentence of life imprisonment and a fine of $19 million, though it might seem odd, involved selling to Cuba the resins used to purify drinking water supplied to the population for direct consumption.

The genocidal and criminal character of these measures relates to the obstinate United States policy of crushing the Cuban people through hunger and disease. Cuba has denounced and will continue to denounce in all international forums the effects of such policies on its public health system.

4. Damage to the educational, cultural and sports sectors and to academic and scientific exchanges between the Cuban and American peoples

The effect of the embargo on the Cuban educational, cultural, sports and academic sectors over the past 45 years has been substantial. The intensification of the related policy during the last decade has had a significant impact on their development and has deprived the peoples of Cuba and the United States of the possibility of maintaining a flow of exchange in those areas.

Some of the major difficulties faced by those sectors as a consequence of the embargo stem from the denial of access to the goods and services markets of the United States to acquire the necessary inputs for creative work and teaching; the prohibition against Cuban artists' signing commercial contracts for work in the United States and receiving fees for their performances; the prevention of Cuban innovators from enjoying intellectual property rights; restrictions on travel freedom through sanctions and threats against United States citizens who wish to visit Cuba; and the refusal to grant visas to scientists, artists, athletes, educators and other Cuban personalities.

In the educational sector, the effects indicated in the report sent by Cuba to the Secretary-General last year are still the same. Such is the case of the supply of pencils, notebooks and paper for general use in teaching, which amounted to only 60 per cent of what the country purchased in 1989. Despite major efforts, only 50 per cent of the required textbooks and complementary bibliographies are printed.

In addition, Cuba is forced to pay high interest rates for the commercial credits that it obtains. This raises the cost of the goods and services acquired for the Cuban educational system, inasmuch as Cuba has to pay 25 to 30 per cent more than international prices. Moreover, because Cuba cannot acquire educational materials on the United States market, it must import them from more distant markets, with consequent additional freight costs. To illustrate this, one need only mention imports of materials and resources for Cuban schools contracted for on distant markets in the amount of $19 million, which, had it been possible to effect those imports from the United States, could have financed the purchase of a larger quantity of school supplies.

These difficulties are aggravated by the extraterritorial effects of the Torricelli Act, owing to which ships transporting such goods from Asian markets cannot put in to Cuban ports. The vessels therefore deposit the containers at an entrepôt in a third country near Cuba for subsequent trans-shipment to Havana, thus adding an average of $500 per container in maritime freight and causing excessive delays in the delivery of the goods.

A clear example of the direct repercussions on the educational system occurred in early 2004,[10] when, for the reasons mentioned above, the production of school uniforms was delayed for more than a month, with consequent delays in their supply to school pupils and an impact on workers in the 44 factories that remained closed for this reason.

Going hand in hand with these restrictions is an ever-growing impact of the embargo on the care of children with special educational needs. Despite the effort of the Cuban State to provide for those children, the harassment of Cuba by the United States has resulted in an appreciable shortage of therapeutic resources for the best physical rehabilitation of children with psychomotor limitations, starting from the

earliest age, given the importance of early detection for anticipating more complicated sequelae and in some cases eliminating the defect.

To mention only one case, at the Abel Santamaría Special School, where 150 blind or otherwise visually impaired children struggle with the limitations imposed on them by life, teachers and pupils work together in a colossal undertaking in which the children learn to read and write and are given the knowledge that they will need to be useful in their lives. To achieve this, each child must have a Braille machine, but this has not been possible despite the efforts of the Cuban Government, owing to the restrictions imposed under the embargo.

As stated in the report sent by Cuba to the Secretary-General last year, the difficulties connected with the purchase of those machines still exist. A Perkins Brailler currently costs approximately $700 in the United States. Owing to the embargo, Cuba has had to buy them on other markets at much higher prices of up to $1,000. The difficulties involved in acquiring braillon paper, essential for this type of teaching, also continue.

The impact is extensive in the cultural sphere too, where it has increased in recent years.

The economic embargo on culture not only affects the artist and the creative act itself, but also detracts from the promotion and enrichment of cultural consumption as well as the commercial production of the cultural goods and services created.

A telling example was the visit by the National Ballet of Cuba to the United States from 1 October to 16 November 2003. This prestigious, internationally acclaimed company was forced to give non-commercial performances in over 20 United States cities, which resulted in a loss of income of some $200,000 solely by way of payment for the performances given. The Ballet's agreement to perform in the United States, even free of charge, however, can be understood only in terms of the extraordinary universal calling of Cuban culture. To stifle such exchange is also to violate the cultural rights of the American people.

The higher cost of specialized study materials for the schools of the Artistic Teaching System in all its manifestations is another example of the impact of the embargo. This year the Cuban Government found it necessary to effect such purchases on distant markets, in the amount of $2.4 million, which has meant an excess cost of approximately $100,000 in freight as compared to the cost of transport of the same items if it had been possible to import them from the United States.

The National System of Public Libraries has also been seriously affected by the embargo. The System, which is made up of 392 libraries located throughout the national territory in cities, towns and villages, living quarters on sugar plantations and in mountainous and remote areas, offers services to students at all educational levels, from primary-school to university and technical, as well as to retirees and housewives, or in other words, to the entire population. The libraries' main activities include holding literary workshops, organizing reading circles in schools, attending to student needs in municipalities and townships and offering extension activities in areas more remote from urban centres. For that purpose, they possess an incalculable collection of titles, including works representative of both national and world literature.

In addition to facilitating free community access to information and training readers, the libraries serve as cultural meeting-places based on the various activities which they systematically carry on. To do so, they rely on the working relationships that they develop with both local and outside creative artists as well as with various organizations, agencies and institutions.

However, in spite of their extensive efforts towards promoting the habit of reading among the Cuban population, the libraries are adversely affected in regard to the purchase of software, which is indispensable if they are to continue their work in the field of digitization, publishing and information science. One example is the ban on access to the lists of subject headings of the Dewey Decimal Classification.[13]

If it were possible to acquire the necessary materials on the United States market or from American companies in the Caribbean or in Central or South America, 3,600 documents could be restored annually. Today, not even 20 per cent of this quantity is handled. To give a clearer idea of the problem, 31-gram tissue paper, an indispensable material for document restoration also known as Japanese paper, is marketed in Cuba through intermediary companies at approximately $498.77 per roll, whereas if it were purchased in the United States, the price would be $280.

Major obstacles have also been encountered in the acquisition of new technologies for the reading and updating of library funds and collections as a result of the lack of access to the American book market. Nor is there any access to databases or online library catalogue services belonging to United States companies.

As a result of the inability to display works from our collections in sister museums in the United States and vice versa, both peoples are deprived of the possibility of learning about what is most representative of the plastic arts of the two countries. For example, the inclusion of seven Cuban works in the international exhibition prepared by the Museum of Fine Arts, Houston, inaugurated in June 2004, was prohibited.

The significance of preserving the tangible and intangible heritage to elevate national and world culture has been recognized by the United Nations system. However, the embargo has made it impossible to buy restoration materials in United States territory, with a consequent increase in costs and additional obstacles in the way of the tasks of saving and restoring the national heritage.

Furthermore, the United States Department of the Treasury has denied licences for carrying out assistance and cooperation projects proposed by American institutions for the conservation of the island's cultural heritage. Important Cuban cultural institutions have found themselves blocked from access to $80,000 from the World Monuments Fund.[14]

The Cuban publishing industry has been sorely affected. One concrete example of this is the fact that, in the payment of royalties to the Latin American Literary Agency by foreign publishing houses, there is an approximate 30 per cent loss

[13] Bibliographic classification system used by more than 200,000 libraries throughout the world, providing a logical method for organizing each component of a library's collection.

[14] American organization headquartered in New York that has assisted in the preservation of more than 430 world heritage works in 83 countries.

resulting from the prohibition against Cuban institutions cashing cheques or receiving transfers through United States banks or foreign banks located in the United States. This requires recourse to correspondent services in other banks, thus making the transactions more costly.

American publishers refuse to establish relations with their counterparts on the island, owing to the fact that they are prohibited from distributing Cuban books on the United States market or negotiating royalties, in addition to the ban on other commercial procedures peculiar to the publishing world.

In addition, the book business incurred more than $50,000 in extra costs due to the impossibility of handling collections and payments through American banks. The need to turn to more remote countries to acquire raw materials and technology and to gain access to credits added $65,000 to the publishing industry's costs.

In order to buy materials essential to the survival of the cinema industry, it has been necessary to resort to intermediaries and suppliers from other geographic areas, with a consequent increase in the cost of the related imports. Virgin negative material, laboratory chemicals, accessories and equipment have been regularly obtained at much higher cost than if they could have been bought on the American market.

The fact that it is impossible for the Cuban Institute of Cinematographic Art and Industry (ICAIC) to buy Kodak film directly is a considerable hindrance to artistic production and limits the technological options for the production of Cuban films and their subsequent marketing by the major world cinema chains. Nor can ICAIC use the licence for the Dolby sound system in its films, yet its use is an almost absolute prerequisite for any distributor in the world to agree to a large-screen showing of any film.

Added to all these economic impacts reported in connection with the Cuban educational and cultural sectors is the ridiculous and grotesque intention to use the denial of visas and the elimination of licences to curb exchanges of every type between the two peoples. The following are a few examples of this policy:

- The denial of visas to University of Oriente Sociology Professors Dr. Tamara Caballero and Dr. Omar Guzmán to enable them to participate in the First Congress on University-Communities of Puerto Rico and the Caribbean, held from 25 to 29 January on the Humacao and Mayagüez campuses of the University of Puerto Rico;

- The need to cancel the 10th Scientific Seminar on the Quality of Education: Exchange of Experiences of Cuban and North American Professionals, scheduled to be held in Chicago from 28 April to 2 May 2003 and attended by 10 Cuban professors selected by the National Teachers Association, on 20 April, when no replies were received to the visa applications submitted;

- The denial of a visa to Héctor López Salinas, Titular Researcher and Titular Professor of the Faculty of Mechanical Engineering of the José Antonio Echevarría Higher Polytechnic Institute, who was to attend the 2003 Microscopy and Microanalysis Convention held from 1 to 8 August 2003 in Texas, in the United States of America;

- The denial of a travel permit to Mr. Luis Garay, an Argentine national resident in the United States, director of a percussion group made up entirely of Latin

musicians who had been invited to the Percuba 2004 festival. The Department of the Treasury alleged that in their application they had failed to comply with the Cuba embargo law;

- The silence in response to the application submitted by Mr. Benjamin Treuhaft to extend his travel permit and visit the island on the occasion of the tenth anniversary of the project "Send a Piana to Havana", which he had promoted. Although he subsequently received permission to send two containers of pianos, by way of a donation to the National Center of Art Schools (CNEArt), he was prohibited from sending computers and computer accessories, including a printer, as part of a blood-count unit donated to Juan Manual Márquez Paediatric Hospital;

- The cancellation of the tours of O'Mara Portuondo's group, the Cuban hip hop project "La Fabrik", the "Cubanisimo" group and the singer-songwriter Carlos Varela;

- The prevention of well-known musicians such as Ibrahim Ferrer and Manuel Galbán, writers such as Miguel Barnet and Eduardo Heras León, directors such as Lisette Vila Espina and Gerardo Chijona Valdés, actresses such as Veronica Lynn López and an extremely long list of outstanding exponents of Cuban culture from participating in performances and events in the United States by having their visa applications denied.

From May 2003 to April 2004, 53 persons representing the cultural sector were kept waiting for entry visas to the United States and the applications of 215 creative and performing artists were flatly rejected.

As in the previous year, Cuban artists were assigned to two different categories in cases in which visas were denied: those coming under section 214 (b) of the United States Immigration and Nationality Act, which pertains to persons who, according to the American authorities, are possible emigrants and was applied in the case of 5 applicants; and section 212 (f), the most ridiculous of all, which is invoked when the visa applicant is considered a "threat to the interests of the United States" and was applied to 210 Cuban artists.

It is obvious that this policy is also aimed at discouraging the promotion of Cuban artists in the cultural circles of the United States by cultural agents and impresarios operating in that country.

Nor has the organization of sporting exchanges escaped bans and restrictions. Between May 2003 and April 2004, visas were denied to 21 Cuban sports officials, most of whom were due to attend major events or meetings in the United States.

In the cases of some of these individuals, who hold senior positions within international federations and organizations, the negative repercussions of their having been prevented from carrying out their important missions have been felt beyond the world of Cuban sports. That was the case with Mr. Ciro Pérez Hebra, who was prevented from attending the Executive Meeting and General Assembly of *the Central American and Caribbean Sports Organization (CACSO), of which he is* a Vice-President.

Due to the restrictions and the irregularities involved in the process of granting visas to a Cuban and a Russian official, both of whom were members of the International Federation of Amateur Wrestling (FILA), and were consequently

prevented from participating in the New York World Championships of November 2003, FILA decided to bar the United States from hosting the 2004 World Cup. The obstinate policy of the United States Administration is thus having a major impact on the interests of its own athletes.

As if these repercussions were not enough, the new measures imposed on Cuba by the United States Administration include the elimination of the general permit for American athletes to participate in amateur and semi-professional competitions held in Cuba under the auspices of an international federation.

This irrational policy extends even to America's disabled athletes. One of the clearest examples of this is that of the doctors and several disabled athletes of a non-profit organization called World Team Sports, who on 14 November 2003 were prevented from travelling to Cuba by the United States authorities. They had wanted to take wheelchairs for disabled Cubans, as well as educational materials, and prostheses to be donated to other handicapped Cubans.

The obsession of the United States Administration with blocking the least exchange between the two peoples goes beyond the areas mentioned above, and even affects Cuba's scientific community.

On the basis of the regulations issued by the United States Treasury Department in September 2003, in January 2004 a ban was introduced on reviewing, publishing or revising, in United States scientific publications and journals, the work by authors from countries subject to a "trade embargo", including Cuba. Those who do so will be considered to be in violation of United States law and may be subject to heavy fines of up to $50,000, and may even face a prison sentence of up to 10 years.

Not even during the bitterest years of the Cold War was any measure taken that was so contrary to the ideals promoted by the international scientific community. The publication of research results is the first step in the spread of scientific knowledge, and is essential to the proper advancement of science.

Only through the free flow of ideas and knowledge among scientists and academics from all over the world can science grow and advance for the benefit of all mankind. By contrast, this measure has deprived scientific communities in the United States and around the world from sharing in Cuba's acknowledged scientific advances.

After some American publications had imposed a moratorium on the publication of articles submitted by Cuban scientists, some others, such as the American Institute of Physics (AIP), the American Physical Society (APS) and the American Association for the Advancement of Science (AAAS), which publishes the prestigious journal *Science*, openly refused to comply with the Treasury Department's order.

In April 2004, following massive criticism of this measure, the United States Office of Foreign Assets Control (OFAC) relented, and announced that scientific communities in countries "subject to sanctions" could continue to publish their articles in specialized American journals.

As can be seen throughout this section, the promotion of culture, progress in the areas of education and sport, and the advancement of academic and scientific exchanges between the Cuban and American peoples have had to confront numerous

obstacles to their development. However, despite all these difficulties, and thanks to the political will of the Cuban people and Government, significant progress has been achieved in these areas.

Suffice it to mention the considerable efforts made in the education sector, as a result of which Cuba now has one primary- or secondary-school teacher per 40 inhabitants approximately — making it the country with the highest number of teachers per capita in the world. The average class size at the primary level has been reduced to less than 20, and at the basic secondary school level the pupil/teacher ratio has been brought down to 15. In addition, municipal universities have been established, which significantly increase opportunities for access to higher education and raising total enrolments to over 300,000 students.

As a result, 59.8 per cent of the Cuban population have completed basic or higher secondary education and 7.4 per cent hold a university degree.

Efforts are also being made to maintain, and improve on, the achievements of further education programmes such as the University for All; the Audiovisual Programme for children, adolescents and youth enrolled in schools; community video and computer centres for students and the population in general; large-scale training of social workers and art teachers to work in schools and communities; and many others, who help to raise the quality of teaching in Cuba.

Cuba's achievements in the educational, cultural, sports and scientific fields would have been impossible without the selfless devotion, self-sacrifice, creativity and tenacity of the teachers, artists, athletes and scientists who, day after day, surmount the difficulties imposed by the embargo in an effort to make Cuba a more developed nation, both socially and in terms of its overall general culture.

5. Section 211 of the Omnibus Appropriations Act of 1999

For the sixth consecutive year, Cuba denounces at the United Nations the United States Government's use of Section 211 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, under which Cuban owners and their successors, including foreign companies with interests in Cuba, are denied the recognition and enjoyment, on United States territory, of their rights to trademarks or trade names that are registered and protected in Cuba and tied to former properties nationalized by the Cuban Government.

It is worthwhile recalling that this measure was approved by the United States Congress in October 1998 under a procedure that lacked transparency and was intended to benefit the Bacardi company, which, although based outside the United States, has major commercial interests there, through which it exercises considerable political influence to maintain and strengthen the embargo imposed on Cuba.

Nor is it by chance that Section 211 extends, into the realm of intellectual property, the provisions of the Helms-Burton Act, which — as is well known — was also promoted by Bacardi, among others. The application of Section 211 thus has very negative implications, not just within the context of bilateral relations between Cuba and the United States, but also in the multilateral context.

In the bilateral sphere, it reinforces the economic, commercial and financial embargo imposed on Cuba, in that it seeks to prevent foreign investment in the

country deriving from the international marketing of Cuban products whose trademarks and trade names have won international prestige. Until Section 211 was approved, the intellectual property rights of owners, both natural and juridical persons, in both countries continued to be recognized on a mutual basis, despite the embargo.

The application of Section 211 by a New York court prevented a finding in favour of a company with Cuban and French interests (Havana Club Holding) in a lawsuit brought in 1996 (prior to the approval of Section 211) in response to the unauthorized assumption by Bacardi of the right to use the Havana Club name in the United States by fraudulently marketing there a rum under that name which had been manufactured outside Cuba.

The harm caused by the application of Section 211 goes beyond the potential business interests of Cuban companies in the United States. Cuba wishes to draw the international community's attention to the climate of uncertainty and the economic and political consequences with concrete effects for the American business community, and Cuba's commercial partners which the application of Section 211 may create in the near future.

Every day, more and more entities and companies in the United States are becoming aware of this and expressing their concern that Section 211 has ruined the practice followed by both countries until the approval of the Act.

In fulfilment of its international obligations and despite the policy of the embargo and hostility pursued by the United States Government, Cuba has honoured and continues to protect the rights of hundreds of American companies that maintain up-to-date registrations of more than 5,000 trademarks, trade names and patents in Cuba.

In this context, suffice it to recall the decision of the Appellate Body of the World Trade Organization (WTO) of January 2002, which, at the request of the European Union, found that Section 211 was contrary to the national treatment and most-favoured nation obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and recommended that the United States bring the legislation concerned into conformity with those obligations, within a reasonable period of time.

The United States Government is obliged to comply with this decision, and has agreed to a series of postponements of implementation with the European Union. The most recently agreed deadline, which expires on 31 December 2004, was approved on the grounds that the United States Government was working with Congress to amend its legislation.

Cuba has expressed, and shall continue to express, to the relevant WTO bodies, in particular the periodic meetings of its Dispute Settlement body, its concern about the successive deadline extensions granted, urging the United States Government to abide by the decision of the Appellate Body and repeal Section 211 as the only solution to the dispute.

Cuba insists that the continued implementation of Section 211, which infringes the intellectual property rights protected by specific international conventions and agreements, serves merely to bring into question the posture of the seemingly great

champion of intellectual property rights traditionally adopted by the United States Government within WTO.

The repeated postponement by the United States Government of its compliance with the decision of the competent WTO body also proves its lack of political will to help ensure the effectiveness of that body's procedures for the settlement of disputes, at a particularly difficult period in multilateral negotiations.

Bill HR 4225, introduced recently by United States Congressman Lamar Smith (Republican, Texas) and co-sponsored by well-known anti-Cuba legislators, seeks to amend Section 211, through insubstantial changes, to conform to the recommendations of the Appellate Body of the World Trade Organization and keep it in force. This Bill has a corresponding version in the Senate (S.2373), introduced by Senator Pete Domenici (Republican, New Mexico) and co-sponsored by senators opposed to the lifting of the embargo against Cuba.

Cuba is closely following the progress of this Bill in the United States Congress.

Last January the United States Patent and Trademark Office denied Bacardi's request to cancel the registration of the Havana Club brand name that had been granted to the Cuban company Cubaexport in 1976 and which had been confirmed by the partial ruling of the New York court in 1998. This ruling has been appealed by Bacardi in the courts, demonstrating its determination to expropriate the brand name and ensure that Section 211 prevails.

6. Impact on the external development of the Cuban economy

The application of the economic, commercial and financial embargo imposed against Cuba by the United States continues to have an increasingly negative effect on the external development of the national economy, which is widely acknowledged to be structurally open.

Cuba's foreign trade has sustained heavy losses due to the arbitrary regulations and laws that implement this policy. Last year alone, Cuba was obliged to pay $308.4 million extra for products contracted at prices higher than those set under normal conditions. This was essentially due to differences in financing conditions and to the unavoidably higher transport, freight and insurance costs of operations that must be paid because of America's blockade of Cuba's foreign trade.

In the same way, Cuba's exports suffered substantial losses in 2003 through the failure to earn income from exports that could have been made to the United States market if the embargo had not been in place. Total losses amounted to $457 million.

All sectors of the Cuban economy have been affected by the embargo imposed on their commercial activities.

One of Cuba's main industries, the nickel industry, has been seriously hit in recent years. A combination of excessive marketing costs, the inability to acquire raw materials and maintenance supplies in the United States, and high transport charges has led to additional costs of around $13.5 million.

If there were no embargo, and in view of the fact that Cuba, due to its proximity, would be a natural exporter of nickel and cobalt to the United States

market, annual nickel exports would be at around 35,000 tons, representing half of Cuba's current nickel production, which at current prices is valued at over $450 million. This figure represents, in turn, 25 per cent of the United States' average raw nickel imports over the past five years.

As far as cobalt is concerned, Cuba could sell 50 per cent of its current annual production of around 2,000 tons to the United States. At current prices, this would amount to over $75 million, or 23 per cent of America's average cobalt imports over the past five years.

Another key sector for the country and its tourism development is civil aviation, which has suffered significant losses during the period in question, amounting to slightly more than $163 million.

A number of American airlines operate regular charter flights to and from Cuba, totalling more than 60 scheduled flights per week. They include United Airlines, Continental, Delta, Miami Air, American Eagle, Gulf Stream, Falcon Air, North American, and others. These carriers fly out of Miami, Los Angeles and New York, and the Cuban State provides them with all the facilities that they need for their passenger-transport operations.

However, the United States Government does not authorize Cuban carriers to operate into its territory, under Section 515.201 (a) of the Cuban Assets Control Regulations (31 CFR, Part 515), which states that without specific authorization, the landing of any aircraft operated by Cubana de Aviacion in Miami may constitute a prohibited activity and the aircraft may be seized.

Moreover, it is impossible to access any type of aeronautical technology developed by the United States, including technology related to communications, navigation and inspection or to airport systems, including firefighting and rescue systems. As a result, Cuba must turn to other markets, with a consequent increase in transportation costs of up to 15 per cent, the imposition of "Cuba risk" penalties and demands for guarantees as well as high-interest short-term financing.

A further demonstration of the current United States administration's lack of commitment to the fight against terrorism and its double standards in this regard, lies in the fact that Cuban airlines have been prevented from obtaining in third-country markets spare parts for the model 97 HS explosives detectors used by in-flight security personnel. As long as the company supplying the product was the British-owned Ion Track Instruments, it was possible to acquire them without difficulty. However, as soon as the British company was bought by an American company, the supply stopped, due to the embargo measures.

The economic, commercial and financial embargo imposed on Cuba by the United States thus violates the principles set forth in the Preamble to the Convention on International Civil Aviation ("Chicago Convention"), which proclaims that "international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically".

It also violates the operative rules and principles of the Chicago Convention, particularly those set forth in article 44 *(a)*, *(c)*, *(d)*, (f), (g), (h) and (i), which includes among the purposes and objectives of the International Civil Aviation Organization (ICAO) encouraging the development of international air transport,

meeting the needs of the peoples of the world in this regard; ensuring that the rights of Contracting States are fully respected, and avoiding discrimination between them; and generally promoting the development of all aspects of international civil aeronautics.

The restrictions imposed under the Torricelli Act have been one of the main barriers to Cuba's foreign trade, and have caused serious harm to Cuban companies.

The rule that vessels that visit a Cuban port are prohibited from putting into an American port for six months dissuades many operators that could transport cargo to Cuba from doing so, because most of them want to preserve access to the United States market. The resulting losses total more than $53.6 million.

As a result, the only shipowners willing to enter Cuban ports are those whose ships have been in service for more than 15 or 20 years and thus could never meet the requirements for entering American ports. This increases the risk of accidents and damage to cargo and is reflected in higher freight rates when these ships do not meet the regulations established for maritime transport as well as higher insurance costs.

One illustration of that impact is the extra $648,000 that Cuba was forced to pay in freight costs that were above the international market rates for transporting ammonia, because few ships are equipped to carry such chemicals and most are bound for the American market.

In recent years, major international companies have expressed interest in working jointly with the Cuban enterprise Asociación Portuaria de Cuba (ASPORT) to develop port infrastructure in at least two of the country's major ports, in order to conduct operations involving the trans-shipment of containers for the region's principal markets. These projects call for investments of between $100 million and $200 million. Owing to the embargo, in particular the prohibitions under the Torricelli Act, those international companies have postponed implementation of the projects until the restrictions are changed.

The effects of the embargo can also be seen in the transport sector, with a directly negative impact on the population. The Empresa Importadora General del Transporte (EIGT), an import company of the Cuban Ministry of Transport, contacted the transportation division of the United States corporation General Electric by electronic mail in late February 2004. EIGT was basically interested in purchasing locomotives, together with parts and components, in order to revive Cuba's badly-affected stock of locomotives, which plays a vital part in the island's commercial transportation and also in transporting most of the population from one province to another.

The deal was prevented from going through when General Electric replied that "following additional inquiries, we have found that we are currently prohibited from doing business with companies in Cuba".

Considerable harm has also been done to Cuba's construction sector. The import enterprises of the Ministry of Construction alone suffered losses totalling some $11.6 million between May and December 2003, in the areas of prices, transport and financial costs. This has negative repercussions for building activities taking place in the country.

If we bear in mind the fact that the building of a decent dwelling costs about $8,000, the aforementioned amount would have made possible the construction of more than 1,400 dwellings, which would contribute to the country's efforts to solve the housing problem.

Because of the strict and sustained application of the embargo, Cuban enterprises have practically ceased looking for United States suppliers for the products that the country needs to import. Nonetheless, in certain emergency situations, having determined that particular American companies possess the necessary items in terms of quality and price, Cuban enterprises have made a few attempts to do business with those companies. This was the case for the Cuban building company CONSTRUIMPORT.

In March 2003, needing to import equipment to cope with growing construction investments in Cuba, CONSTRUIMPORT sent a fax to the manager of the United States company Caterpillar, requesting the prices of the equipment that it wished to purchase. The reply from the Regional Manager of Caterpillar Americas Services Co. stated that as an American company, Caterpillar was subject to United States law and was prohibited from selling products to Cuba or for use in that country.

As if that were not enough, the message went on to say that in addition, United States law also prohibited Caterpillar distributors from making such sales, and that they had been so instructed.

The telecommunications sector is another of those most heavily affected by the embargo policy. A telling example of this is the impact suffered by the Empresa de Telecomunicaciones de Cuba (ETECSA), amounting to $22.22 million over the past twelve months.

The prohibition of entering into contracts directly with United States companies, or companies having any investor in that country, prevents Cuba from using the telecommunications services that they could provide. That was the case for PANAMSAT, a United States-owned satellite provider, with which we cannot enter into contracts; and for the difficulties that we have had in seeking to reach a commercial agreement with SATMEX, a Mexican company partly owned by United States investors. The cost of international telecommunications services for Cuba would be much less if we could secure contracts with these providers.

Difficulties are also continuing in relation to the supply of equipment and software by companies with which we have already entered into contracts. In the case of Internet services, each time an upgrade in the services contracted has been needed, problems have been encountered or the necessary equipment has been prevented from reaching Cuba.

The same has occurred with software, since we are unable to obtain use licences, and this prevents our enterprises from providing new and improved services. In the user guides for Microsoft products, and in all use-licence contracts for those products and those of other prestigious software development companies such as Borland and Adobe, there is a clause stating that neither the software and corresponding documentation, nor the underlying information or technology, may be downloaded, exported or re-exported to Cuba.

In restricting the Cuban people's access to information, knowledge and trade in those goods and services, the United States Government is once again violating consensus agreements reached by the international community, particularly the spirit and the letter of the recent Declaration of Principles of the World Summit on the Information Society, paragraph 46 of which reads as follows: "In building the Information Society, States are strongly urged to take steps with a view to the avoidance of, and refrain from, any unilateral measure not in accordance with international law and the Charter of the United Nations that impedes the full achievement of economic and social development by the population of the affected countries, and that hinders the well-being of their population."

Companies operating in the petroleum sector are facing great difficulties in purchasing goods and services necessary for their operations. The impossibility of obtaining them from the United States, and the increased costs due to the necessity of buying them from other markets, involving high transportation costs and the payment of commissions to intermediaries, have represented a total impact of $11 million for the enterprise Cuba-Petróleo.

Also, in a blatant restriction of the investment process, foreign companies having petroleum contracts with Cuba have to pay an average of 25 per cent over the normal cost of the products and services that they purchase for their operations involving Cuba. In 2003, this situation caused excess payments of as much as $29.8 million.

Owing to the prohibition of Cuban sugar exports to the United States market, which means that we cannot have a share in the United States import quota system and have no access to that market, it has been calculated that 603,600 metric tons of Cuban sugar could have been exported to the United States during the 2002-2003 season, within the quota and outside it, signifying a loss of $196.25 million. Not only are we prohibited from having access to the United States market, but we have no direct access to the New York Stock Exchange, where international raw sugar transactions take place.

Severe restrictions on sales of foodstuffs and medicines to Cuba have also remained in place.[15]

The contents of this section confirm the harmful impact of the application of the embargo policy on the Cuban economy, and provide a picture of the difficulties, restrictions and sacrifices that the Cuban people have had to face for more than 45 years. The total amount of the losses listed in the preceding paragraphs reflects only a small part of the real everyday impact on the sectors concerned.

7. Impact on other sectors of the national economy

Every year, innumerable new examples are added to the list of losses accumulated by Cuba because of the ravages caused by the economic, commercial and financial embargo imposed by the United States.

The following are a few of those losses:

[15] See the report of the Secretary-General, "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba" (A/58/287), dated 18 August 2003, pp. 22-26.

- The United States monopoly on the manufacture of commercial aircraft and their components and parts, and technology for their production and maintenance, makes their purchase prohibitively expensive for Cuban airlines. This situation has made it necessary to lease aircraft under abnormal and unfavourable conditions, also resulting from the pressures caused by the embargo. This is not in keeping with common practice in this sector; Cuba has to make use of intermediaries, leading to increased costs in comparison with world prices. It means that the commercial services offered are more expensive, placing Cuban carriers at a serious competitive disadvantage.

As a result, the leasing by Cubana de Aviación of Airbus-320 aircraft has cost more than $9.2 million. For a similar transaction involving another country's airline, the cost would have been $7.1 million. This means additional expenditure of more than $2.1 million.

Similarly, the leasing of Airbus-330 aircraft has cost over $15.4 million. Had the same aircraft been leased by another country, the cost would have been $12 million. The extra cost for Cubana de Aviación was therefore more than $3.3 million.

- Owing to the ban prohibiting United States citizens from visiting Cuba, Cuban and United States airlines have been prevented from providing the corresponding services. During the period covered by this report, the loss of income due to this ban, and the resulting non-provision of airport and other services and the non-collection from passengers of the corresponding airport taxes add up to a total of $143.5 million.

- Of the 49 million United States tourists who have visited the Caribbean over the past five years, at least 7.4 million would have visited Cuba had it not been for the travel bans and heavy restrictions on flights to Cuba. Despite the harassment and impediments involved in travel to Cuba from the United States, 900,000 travellers succeeded in travelling to Cuba, both United States nationals and residents of that country who are of Cuban origin. According to this estimate, therefore, some 6.5 million tourists stayed away from Cuba, entailing a loss of $4,225 million in income from tourism.

- Owing to the elimination of permits for travel to Cuba for the purpose of "people-to-people" exchanges, the San Cristóbal travel agency, belonging to the Cuban company Habaguanex, has reported that more than 30 group trips were cancelled between 2003 and the first quarter of 2004, because authorization could not be obtained from the Treasury Department. Habaguanex calculates that it lost income of about $1.9 million during that period.

- The impossibility of using the United States dollar for commercial transactions with third States, together with the prohibition on interbank relations between Cuba and the United States, prevents direct financial transfers from taking place, with the resulting impact of exchange-rate fluctuations, leading to considerable harm to the Cuban economy.

In the same way, these restrictions are reflected in the difficulties for Cuban enterprises in obtaining credits, and in extremely high interest rates that they have to pay when credits are granted, owing to the risk involved for third-country

enterprises in doing business with Cuba. The impact of these problems amounts to some $121.7 million.

- Owing to the ban on the use of the United States dollar, the operations of Cuban commercial banks have been affected as a result of monetary fluctuations. For example, the Banco Internacional de Comercio S.A. (BICSA) has suffered losses of about $4.2 million because of this problem, during the period covered by this report.

- United States companies are the main producers of lead, both pure and alloyed, whether within the United States or as multinational companies working in other countries. These major lead producers and refiners, although they offer the market's most competitive prices, are banned from supplying the Cuban accumulator manufacturing industry because of the embargo laws.

Lead, which makes up 65 to 70 per cent of the components in the manufacture of an accumulator, has to be imported from Europe and South America, where a ton of lead costs on average $100 more. Since the Cuban accumulator manufacturing company annually consumes 1,700 tons of lead alloy and some 1,600 tons of pure lead, totalling 3,300 tons, that company is incurring excess expenditure of about $330,000 per year.

- Polystyrene resin is an essential input for the steelworking industry, and it is very expensive to purchase owing to the embargo. When purchased in Mexico, it costs $1,250 per ton and is transported in a container having a capacity of 16 tons. The Cuban steelworking industry has to import 12 containers annually. If this product could be purchased directly from the United States, a saving of $300 per ton would result, or $4,800 per container.

- In 2003, it was impossible to purchase raw materials and other essential products for the steelworking industry from the United States, including steels, polyols, isocyanates, paint, hoists and spare parts for them, waterproofing materials, dry mass for electrodes, ceramics for flooring, electrical equipment and so forth. Consequently, those needs had to be met via third countries, with an impact of $787,500 owing to higher prices. In addition, there was an increased cost of $142,600 for maritime and air freight costs for the importation of those products from Europe and Asia.

- Scientific development in Cuba, although it is considered dynamic for a developing country, has been severely restricted owing to impediments for foreign companies with United States capital, or through the direct influence of the United States Government. The embargo policy has obstructed the development of human capital, information technologies, the acquisition of equipment and material resources needed for scientific research, the transfer and development of technology, and the marketing of Cuban products, and other business dealings.

In the last eight years alone, the embargo measures have caused losses in the science, technology and environmental sectors totalling over $1,390 million.

- The purchase of software licences, software upgrades, technical and scientific literature, and technology transfers have to be obtained through third countries because there are regulations which restrict their direct supply to Cuba. This leads to delays and increased prices. For example, it has been impossible to

obtain the necessary licence to work with Macromedia Director, because the Macromedia corporation has applied an explicit clause prohibiting the sale of the program to Cuba. These limitations apply equally to software, training courses and any other services provided by Macromedia.

- The Institute of Scientific and Technical Documentation and Information (IDICT) has been prevented from acquiring directly from various scientific institutions in the United States scientific and technical literature and other documentation which is up-to-date and relevant to the information needs of national scientific and technical programmes, and in general, of the country's principal areas of research and development.

The purchase of that literature has become hugely more expensive because, since it has to be bought through European firms with branches in the United States, air-freight costs raise the overall cost of the literature by 15 per cent. IDICT has also lost subscriptions to journals that it had previously received as gifts from its counterpart institutions; the latter, under pressure from the United States Government, have had to break off their relations with IDICT.

- The Nuclear Energy and Advanced Technologies Agency was unable to purchase two Farmer-type waterproof sleeves for the Secondary Dosimetry Calibration Laboratory (LSCD) of the Centre for Radiation Protection and Hygiene (CPHR), which uses them for the calibration of dosimetric systems used in quality control on external photon and electron beams for the treatment of cancer patients in the Cuban national health system. The purpose of these tests, which are part of the quality control and assurance programmes, is to help to increase the effectiveness of those treatments and provide better quality of life for our cancer patients.

- The embargo laws have denied access for Cuba to financing from multilateral and regional development bodies. In 2003, the Inter-American Development Bank paid out a record amount of $8.9 billion for development programmes, describing itself as "the largest source of multilateral financing" for the region for the tenth consecutive year. Taking that amount as a reference, and assuming that Cuba would have received the same amount as the country which obtained the least (Belize), Cuba would have received $6.7 million. If 1 per cent of the Bank's disbursements had been received, Cuba's share would have been $89 million, enabling the country to implement major social and infrastructure projects in the country, such as the revitalization of buildings and technology in many public-health facilities, to cite just one case.

One example is that the use of soft loans is very widespread in the road-building sector. This is the case in Bolivia where, in December 2003, a road-building programme involving 886 kilometres took place, a distance similar to that between Havana and Santiago de Cuba, and which was financed by means of a loan of about $558.3 million from the World Bank and the Andean Cooperation Fund.

With a loan such as that provided to Bolivia, we could finance the foreign-exchange component needed to complete the National Highway and, with the remaining funding, undertake the repair of the road network of the city of Havana, the road-surface repair and maintenance of the existing sections of the National Highway, the Central Highway, the North and South Circuits, and others. Those resources would make it possible to finance the foreign-exchange component for

implementing these works, in addition to maintaining the Bahía, Línea and Quinta Avenida tunnels.

- The losses caused to the Ministry of Transport by the embargo between May 2003 and April 2004 were on the order of $143.23 million.

- As for the hiring of sailors, the embargo has affected cargo ships, as well as cruise ships that call at United States ports, which are those requiring the largest crews. On almost all cruise ships, there is a crew member for every two passengers, and consequently many jobs have been lost. Lost income for the period under review, taking into account the potential availability of a qualified workforce which is ready to start work, according to international wage standards, amounted to $9.7 million per year.

- Cruise ships operating out of home ports in Florida (Miami, Fort Lauderdale, Cape Canaveral and Tampa) do not include Cuban ports in their weekly routes, owing to the embargo restrictions, particularly the prohibitions imposed by the Torricelli Act.

During the period covered by this report, Cuban enterprises serving cruise ships could have benefited from the docking of an additional 625 vessels, equivalent to 12 cruise ships per week, and an additional 500,000 passengers. This represents lost wharfage income equivalent to $918,800, and for pax fees, calculated at $15 per pax, an amount equivalent to $7.5 million.

- As for tobacco and cigar production and export, the United States used to be a major natural market for Cuba because of its purchases of rolled and leaf tobacco for its own tobacco industry.

Between 1949 and 1958, 35 per cent of Cuban tobacco exports, in terms of value, went to the United States market. On the assumption that Cuba would have maintained that level of exports, the losses in terms of income from rolled tobacco exports are calculated at over $106 million.

As for leaf tobacco, losses due to the lack of access to the United States market are estimated at about $12 million per year.

- The impact of the United States embargo on business in the insurance field is basically to be found in the contracting or purchase of reinsurance protection for Cuban insurance portfolios. The dominance of United States capital on the insurance market has grown in recent years, as a result of mergers and acquisitions in which United States corporations have bought European reinsurance companies.

The impossibility of purchasing reinsurance protection on the United States market or on those of third countries having American interests has forced Cuban insurance companies to turn solely to the European market. This causes delay in the execution of insurance and reinsurance transactions, market restrictions, and a considerable increase in costs because of the so-called "Cuba risk".

- At a time when the country is faced with a severe drought, mainly in the eastern region, the impact of the embargo on the National Institute of Water Resources is affecting the population directly. One example is the Zahori brand of well-drilling machines, which are needed for alleviating the water-supply situation in the areas worst affected by the drought. The compressors and

motors of these machines come from the United States, and since spare parts cannot be obtained, the country has had to halt the use of the machines, with the resulting impact on the population of the areas concerned.

Conclusions

The Administration of President George W. Bush has escalated to unprecedented levels the hostility of its embargo policy against the Cuban people in its imperial arrogance, and unashamedly violates the basic principles of international law and multilateralism and disregards the wishes expressed repeatedly and almost unanimously by the international community in successive resolutions adopted by the General Assembly.

The application of the embargo by the United States Government against Cuba directly violates the basic human rights and fundamental freedoms of the Cuban people, of Cubans residing in the United States and of the American people themselves.

Despite the exceptional rejection which the nature and the extraterritorial application of the embargo have elicited among the international community and contrary to the frantic defence of economic and commercial neo-liberalism by the United States Government, the latter persists in obstructing, by means of threats and persecution, Cuba's relations with third countries.

Cuba will not capitulate in the defence of its independence; it knows that its resistance supports the struggles of many peoples of the world for a more decent life and for the right to develop under more just and sustainable conditions. Neither will it give up the possibility of having unimpeded relations with the American people, based on mutual respect.

The Cuban people is confident that, at a time when the United States Government is irresponsibly threatening their right to life, development, peace and self-determination, the international community will firmly and clearly call for an end to the economic, commercial and financial embargo which has been imposed upon them.

Annex

Damage and harm caused to the Cuban economy by the United States embargo

(Cumulative figures up to 2003)

	Millions of dollars
Lost income from exports and services	36 225.4
Losses from geographical relocation of trade	18 049.7
Impact on production and services	2 847.5
Technological embargo	8 265.4
Impact on services to the population	1 546.3
Financial and monetary impact	8 348.5
Incitement to emigration and brain drain	4 042.4
Total impact of United States embargo	79 325.2